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Current Topics.

Overworked Counsel.

IT IS no enviable task for a solicitor, who has perhaps advised his client to brief a particular K.C., to have later to explain the leader's absence from court at a crucial moment. Such absences, often, unhappily, only too frequent among the busiest men, have in the past been the cause of much adverse criticism. The remedy, however, is by no means as simple as it may appear. There is little doubt that counsel obviously unable to give the requisite attention to a case will immediately return the brief, but the difficulty lies in the fact that the varying state of the lists on occasion completely disorganises his pre-calculated arrangements and leaves him hopelessly involved in the manner indicated. In that unfortunate event no blame, of course, can be imputed to him, but there are, however, occasions when a little more careful attention to the lists and the work in hand would readily enable him to realise that he has "bitten off more than he can chew." In a case before the Second Division of the Judicial Committee of the Privy Council recently, leading counsel in an appeal, while still conducting the case, had to ask the Board to release him to enable him to appear before the First Division, who could not proceed further until he arrived. Commenting on this, Lord THANKERTON complained that their Lordships had been placed in a position in which they never should have been placed. It was obvious, he said, that the cases in the two Divisions would almost certainly clash. "Their Lordships," he continued, "would have declined to release the senior counsel had it not been for consideration of the convenience of the other Division. They were always indulgent to counsel in unexpected difficulty, but in the interests of their Lordships in the conduct of their public business, as well as of the clients in the case, it was essential that such incidents should not occur." He would like to add, concluded his Lordship, that it was part of the duty of junior counsel to be prepared to take the senior's place when he was unavoidably detained elsewhere, and either to open the case or conduct it.

Legislation by Reference.

LEGISLATION by reference in relation to the income tax leads to much misconception and many anomalies. Letters have appeared in these columns recently regarding a note in the 4th Sched. to the Finance (No. 2) Act, 1931 (dealing with amendments of enactments relating to reliefs from income tax), which substitutes words in the Finance Act, 1927, s. 40 (2), which do not actually appear in that section as it reached the statute book. The explanation of what is "apparently a serious error in the Finance (No. 2) Act, 1931," is that the original words had already been substituted by s. 11 (*f*) of the Finance Act, 1930. These cross-references lead to endless trouble and give point to the words of Lord SUMNER, in *Baker* v. *Archer-Shee*, when he said "I am sure no well-wisher of the State of New York would willingly suppose that the income tax law there prevailing is expressed in the same terms as our own." Lord WRENBURY expressed the view of most taxpayers on the debate on the Second Reading of the Income Tax Bill, 1918. "I defy anybody," said his lordship, "reading the Income Tax Acts, involved, complicated and numerous as they are, to rise from his studies with anything but a headache." The drafting of the Income Tax Acts, especially in recent years, is notoriously bad and the law is expressed in involved and almost unintelligible phraseology. The sequence and order of matter which might be expected in a subject so complex in itself is almost entirely absent, and, on another occasion, Lord WRENBURY was moved to refer to "the language of confusion and unintelligibility" of the Income Tax Acts. All this leads to a situation where it becomes necessary for a learned judge to offer the warning that "the practice of officials under an Act is no clue to its true interpretation." When to these drawbacks is added the practice of legislating by reference in its most confusing form, the work of the practitioner becomes almost impossible. We hope that Parliament may find time, at no distant date, to reconsider the whole question of income tax law.

Legal Expenses and Lease Renewals.

THE REVENUE authorities steadfastly refuse to allow the legal costs incurred in the renewal of leases from profits of businesses for income tax purposes. The London members of the Institute of Taxation held a mock appeal on the subject on Thursday and the matter was ably debated by Mr. C. W. SMEE, B.A. (as H.M. Inspector of Taxes) and Mr. G. B. BURR, F.C.I.S., as representing the appellant. The arguments for both sides were strong, but the appellant was able to satisfy the Commissioners that the legal costs were allowable in computing assessable profits. It frequently happens that at the expiration of a lease the trader is forced to do all in his power to retain his old premises where his goodwill has been built up, and it appears to be unreasonable that the authorities should refuse to treat the costs of renewing the right to remain on the premises as part of the expenses to be set against assessable profits. We think the Board of Inland Revenue should issue instructions to its inspectors of taxes to take a more lenient view.

Income Tax and Sur-Tax: A Distinction in Incidence.

THE CASE of *Re Veale's Will*, reported in our issue of the 11th July, at p. 458, illustrates an important distinction between the incidence of income tax and sur-tax (or super-tax, which from this point of view is on a precisely similar footing). The fact that super-tax is merely an additional income tax has frequently been judicially noted—see, for example, *Bowles* v. *Attorney-General* [1912] 1 Ch. 123, and *Re Hulton* [1931] 1 Ch. 77; and where a testator directed his trustees to pay to his widow "the clear annual sum of £4,000 a year free from income tax," it was held that the gift was free from super-tax as well as income tax, strictly so called: *Re Crosse* [1920] 1 Ch. 240. A difference was, however, adopted in the

earlier case of *Re Crawshay* [1915] W.N. 412, where an annuity payable "clear of all deductions, including income tax" was held not to free the recipient from liability to super-tax. The instruments under which the annuity was payable came into operation prior to the imposition of super-tax, but the reason underlying the decision was the consideration that the donor had given the yearly sum "clear of all deductions for which the trustees were accountable." Super-tax was a charge in respect of the donee's whole income and was not imposed in respect of any particular division of it. This decision was followed in *Re Bates* [1925] Ch. 157, where a testator gave to his wife "such a sum in every year as after deduction of income tax for the time being payable in respect thereof will leave a clear sum of £2,000." But that the distinction is somewhat fine is illustrated by *Re Doxat* [1920] W.N. 262, where the gift of an annuity "free of income tax and of all other deductions" was held to impose on the estate the liability to discharge such proportion of the super-tax payable by the recipient as the annuity, with income tax added thereto, bore to the total amount of her income. In this case the testator knew that after his death the beneficiary would be chargeable with super-tax, but the consideration which seems to have chiefly weighed with SARGANT, J., was that on an opposite conclusion the words "all other deductions" would have had a restrictive effect on the words "free of income tax," which, as has been noted, imports freedom from super-tax.

Threats to Commit Suicide.

A CORRESPONDENT writes: "I was interested in your note at p. 635 on '*Felo de se*.' The statement 'It is not always appreciated that it is no crime to say that one is going to kill oneself,' is, of course, perfectly correct. Is it, however, conduct for which a person may be bound over, with or without sureties? I remember many years ago being present in a metropolitan police court when a woman who had threatened to commit suicide was brought before the court by the police. Apparently her threats were taken seriously, and the learned magistrate considered it necessary to protect the woman against herself by putting her under temporary restraint. He ordered her to find a surety for her good behaviour or go to prison; and as she could not find a surety she was committed. When I inquired what form the commitment would take I was told that it would recite that 'she did unlawfully threaten and strive to do herself bodily injury,' and this the magistrate held to be against the peace and therefore such conduct as justified his decision. The woman's conduct did not amount to attempted suicide, even though she had, apparently, threatened it and had tried to do herself some injury. By the way, some of the law books say suicide is a felony. That being so, is it quite correct to say that 'in law it is no offence.' Of course, in our law it is not punishable, but is it not an offence at all?"

Excessive Costs.

MUCH HAS been said of late regarding the cost of litigation and of possible means of decreasing it, but so far no practical and effective steps—as distinct from well-meaning suggestions—appear to have been put into force. In some cases, of course, costs must necessarily be comparatively heavy, but occasionally one hears of cases where they are so obviously disproportionate to the amount involved that it is a matter for regret that the parties' differences could not have been settled without recourse to the courts. "The folly of mankind," said Judge CRAWFORD at Watford County Court, some time ago, "is extraordinary, and the greater part of litigation is due to obstinate stupidity on the part of litigants." His Honour was hearing a case in which the defendant was sued for £420 law costs incurred in connexion with litigation over a debt of £71. The defendant was ordered to pay £12 10s. a month out of his salary of £400 a year. Just before the last Long Vacation, surprise was also expressed by Mr. Justice MCCARDIE, at Birmingham, that the costs in an undefended divorce case were between £50 and £70. When counsel pointed out that the costs in such cases generally varied between £50 and £80, his lordship said that undefended cases ought not to be made a peg on which to hang abnormal bills of costs, and that it would be better to fix a limit that they should not exceed £50. Another point of view was given by a correspondent in *The Times* recently, who alleged that it was practically impossible to decide a serious money dispute involving less than £400 for a smaller sum in costs. This is, no doubt, a somewhat exaggerated statement when one considers the varying factors on which costs must depend, but there is also no doubt that there are occasions when the criticism is justified. The latest judicial condemnation of high costs again comes from Judge CRAWFORD, at Romford County Court on the 26th October. The application before him was for costs in respect of a judgment summons amounting to about £200. The debtor, a young man of twenty-five, had lost an action for damages arising out of a motor car accident, and it was said that the total costs involved in the action were about £270. "Why cannot the British public," exclaimed the judge, "see the utter folly of bringing actions in the High Court, with all the heavy costs which are involved." Had the action, he added, been heard in the county court the costs would probably not have been more than £40. It is well to remember, however, in considering this question of heavy costs, that Mr. PHILIP MARTINEAU, the President of The Law Society, recently pointed out at the Provincial Meeting at Folkestone that in a number of representative cases the solicitors' profit charges were only some 25 per cent. of the whole of the costs of the action, and that when the solicitors' overhead charges were taken into account the remainder was by no means excessive.

Demolition Appeal.

SECTION 17 of the Housing Act, 1930, provides that where a local authority is satisfied that any dwelling-house suitable for the occupation of the working classes is in any respect unfit for human habitation, they shall, unless they are satisfied that it is not capable at a reasonable expense of being rendered so fit, serve a notice calling on the person having control of the house to execute the works specified in the notice within a certain time. It is also provided that the owner shall be heard before such an order is made. Section 19 (3) of the Act states that if the local authority is satisfied that the house cannot be rendered fit for human habitation, then they may require it to be demolished. An interesting case turning on the construction of the above sections came before the Court of Appeal on the 29th October. The appellants were the Ilkeston Corporation, who appealed against the decision of Judge LONGSON, Ilkeston County Court, who had decided that a demolition order made by the corporation should be set aside on the ground that the house in question, which was under the control of three executors under the will of the late owner, was capable at a reasonable expense of being rendered fit for human habitation. Lord Justice SCRUTTON, in his judgment dismissing the appeal, said that it was difficult to treat seriously the corporation's impression that they could not alter or vary their decision to demolish despite anything the owner might say. There does, indeed, seem little, if any, substance in such a suggestion, for it would be nothing short of a denial of natural justice to hear the owner's objections and then deliberately refuse, however influenced they may be, to alter or vary their decision. As his lordship pointed out, the satisfaction required by the Act must obviously be only of a temporary nature and subject to whatever information the owner might give. A further contention of the appellants, which appears equally groundless, was that there could be an appeal to the county court judge only on a point of law. That point was also decided against them, the county court judge having, of course, power to deal with all questions the local authority can deal with in this connexion, for otherwise the right of appeal would be valueless.

Criminal Law and Practice.

THE BENEFIT OF THE DOUBT.—Everyone who ever goes into a criminal court is so accustomed to the maxim that the defendant must have the benefit of the doubt, that it comes as a shock to read a newspaper headline "Police given Benefit of Doubt."

The facts, as reported, were that a lorry driver, being summoned before the Bournemouth Bench for exceeding the speed limit, was said to have been followed by a policeman on a motorcycle whose speedometer registered 35 to 40 miles an hour. The defendant said that by his own speedometer he never exceeded 28 miles an hour.

In fining the defendant, the chairman said it was a question of the reliability of two speedometers, "and the Bench gave the benefit of the doubt to the police constable's speedometer."

Probably the decision was right and the Bench really found that the police speedometer was accurate and trustworthy while the defendant's speedometer, or his evidence, failed to displace the case for the prosecution. If they were really in doubt about the two speedometers, and that was all, it can hardly be supposed they would have given the benefit of the doubt, to which the defendant might submit he was clearly entitled, to the police.

THE DOLE AND CRIME.—Sir Chartres Biron so rarely makes general observations that when he does they are deserving of attention. *The Times*, a few days ago, reported him as saying, at Bow-street Police Court: "It is an extraordinary thing that I hardly ever have a prisoner before me for dishonesty who is not on the dole."

This is a serious matter. It does not mean that people on the dole are generally dishonest; the majority evidently contrive to keep honest or there would be far more crime than there is. But it does look as though people who are kept in idleness more easily succumb to temptation than those who work for their living. It may be urged that there would be more dishonest people if there were no dole and a great deal of unemployment. That is probably true. Nevertheless, the Chief Magistrate is not the only person, speaking with experience and authority, who finds that the dole, which, if not ample, is enough to keep people from privation and should keep them from dishonesty, is often abused by the recipients who supplement it by stealing, fraud, or other crime. The truth, without doubt, is that money for nothing instead of for work done is apt to demoralise weak characters very quickly; and even steady, hard-working men find it difficult to keep their self-respect and their energy if idleness continues too long. There is a close connection between unemployment and crime.

THE VIRTUES OF FLOGGING.—We expected it! A writer to a London paper, rightly alarmed by the prevalence of smash-and-grab raids and bag snatching, is reminded of the days of garrotting, and repeats the well-worn fallacy that garrotting was wiped out by flogging. If every motor bandit were flogged, he thinks, this type of crime would die out. "No number of police, however efficient, will cure us of this evil, but I have yet to meet the man who, having been flogged, will risk a second dose."

We should hesitate to advocate the abolition of corporal punishment. It is a difficult question, and there may be cases in which this punishment is necessary. We are, however, always concerned to ascertain the truth if possible. It has been shown, more than once, that flogging alone was not what put down garrotting; and, indeed, the evidence shows that it had very little to do with it. How did it happen that there was the same decline in the crime in Scotland, without flogging? In a pamphlet recently published by the Howard League for Penal Reform, Mr. George Benson, M.P., dealt with this matter analytically. He also asserts that the claim that a man who has been flogged once never repeats his offence is false. There are, he says, numerous instances of men who have done so, many within a short period after the flogging.

The Land Charges Registers.

By SIR JOHN STEWART-WALLACE, C.B., Chief Land Registrar.

THE land charges registers are an essential complement to the present system of conveyancing by which title to land is proved by deeds kept in private custody. Quite apart from the burdens and liabilities created by the deed or revealed by inspection of the ground, there are a whole series of burdens and liabilities neither created by deed nor revealed by inspection subject to which a purchaser takes the land. Thus the land may have been taken in execution to enforce a judgment debt, or the vendor may be an undischarged bankrupt. There may be annuities or rent-charges, deeds of arrangement, many kinds of orders of the court and statutory charges, pending actions and other charges affecting the land. None of these things appear in the abstract of title, yet they may cause the purchaser to be turned out of the land, or, if he remains in possession, thrust payments or liabilities on him of which had he been aware he would not have bought the land.

Some sort or kind of register, therefore, there must be. The only question left is what sort of register it should be. It cannot be a register of title, for registration of title is an alternative to conveyancing by deeds kept in private custody, not a supplement thereto as the land charges registers by hypothesis must be. The choice is, therefore, not a wide one. They must either be—

(i) Name registers, i.e., registers in which for the purposes of search entries are made under the names of landowners irrespective of the plots they own, or

(ii) Land registers, i.e., registers in which the entries are made against particular parcels of land irrespective of the names of the persons who own them.

A land register is undoubtedly preferable. Persons change, die and are given in marriage while the situation of the land remains unmoved. In 1925 considerations of cost, however, ruled out a land register and continue to bar it to-day. And this because an indispensable prerequisite of a land register is an up-to-date cadastral map of the whole of England and Wales on a scale not smaller than the 25-inch ordnance map. No such map, however, exists. In many areas the ordnance map is as much as forty years out of date. At least a generation and many tens of thousands of pounds, not forthcominng from any quarter, would be required to bring the necessary land register into existence.

A land register being out of the question, we are forced back on a name register. Unfortunately a name register has certain inherent defects known the world over. Names change. The same person may become known at different times by different names. Mr. John D. Smith rises in the social scale and becomes Mr. J. de Ath Smythe, and in consequence occupies an entirely different place in a lexicographical name register as well as in society. Again, the same name may signify entirely different persons and names duplicate themselves to a surprising degree. Hence the futility of a search against John Smith in a name regi ter.

The wealth of information as to writs, orders, charges, deeds of arrangement, etc., given by a search in the land charges registers against John Smith or any common name would be so overwhelming as to render it impracticable as a business proposition and, as a means of lowering the cost of conveyancing (one of the primary purposes of the Birkenhead legislation), grotesque.

Hence the Land Charges Rules, in an effort to keep searches within practicable dimensions, provide not only that the name of the estate owner shall be given but also his address and description. Even this, however, does not eliminate the trouble. The same name, address and description may refer to different persons as in the case of a father and son of the same name carrying on the same business at the same address. Not only is this so, but even against the same name, address

and description, the number of entries may be so great as to render searching impracticable. For the purchaser of a single plot to follow up dozens of entries to assure himself that none of them affect the few feet of land he is buying would be out of the question.

The Land Charges Rules, therefore, make a gallant effort to establish a sort of hybrid register in which the names of estate owners are, *so far as possible*, linked with the land. But in the absence of a cadastral map the link cannot as a matter of general rule go beyond the parish, place or district in which the land is situated. And even this modicum of information cannot be given in all cases. On the registration of a petition in bankruptcy, for instance, it is often not known what land (if any) the bankrupt may own.

All these and other imperfections inherent in the nature of a name register are magnified by the fact that there is not one land charges register, but no less than five. Unless something had been done, searching in five different registers, involving, as it would have done, the preparation of five sets of forms and the payment of five fees, would have been intolerable. Hence the Land Charges Act provides for an alphabetical name index in which all the entries in any of the five registers against a given name shall be entered. For the purposes of searching, the alphabetical index in effect supersedes the registers. This index, however, shares all the disadvantages of a name register, and, as compared with the land charges registers themselves, in an intensified degree owing to the large number of names affected. There are already about 1,000,000 names, and they keep growing every day.

The same effort is made by the Rules to keep searches in the index within practicable dimensions as is made regarding the registers by the Act. Not only must the name, address and description of the estate owner be entered by the department in the index, but provision is made for the addition of the parish, place or district in which the land affected is situated. In complying with applications for official searches, therefore, the registry cannot strictly be required to indicate the property affected by any entries in the registers beyond giving the parish, place or district in which it is situated. It is manifest, however, that if the Registry were in all cases to give only the parish, place or district in which the land is situated and nothing more, the number of entries appearing against the same person (e.g., a builder on a large scale) even in one parish would render searching too expensive to be practicable. For the convenience of searches, therefore, short descriptions of particular parcels are, under the directions of the Chief Land Registrar, entered by the registry in the index where this is feasible. In practice this can rarely be done with safety, except where the road name and house number are given.

Even this, however, does not remove the trouble. House numbers change and duplicate themselves (especially in rural areas) in the most perplexing way. Sometimes the same number is used to denote two or three different houses in the same road. The cases that really give trouble, i.e., plots of land on an undeveloped building estate are, therefore, normally left untouched.

For all these reasons a name register of charges affecting land is, of necessity, imperfect, tentative and unsatisfactory. It is a medium in which not only the names of landowners change or may be misspelt and, if misspelt cannot be found, but in which the description of the land may also change, and, if changed, cannot be found. While a searcher is concerned only with one particular parcel of land and only wants to know what charges (if any) affect this parcel, the land charges registers do not, and, in view of their nature, cannot deal with particular parcels of land. The registers and searchers are at cross purposes and by no practicable manipulation can the nature of the one and the wants of the other be brought into harmony. Year after year the reports to the Lord Chancellor on the working of these registers reveal the constant stream of complaints which reach the department from practitioners—busy men whose philosophy does not enable them to understand or gladly to bear these inherent discords and limitations, and who are still more puzzled when they learn that by no administrative action can they be harmonised or eliminated.

Why have such imperfect registers at all may quite fairly be asked.

To this question this article is an endeavour to reply. Some sort or kind of register is an essential complement to the system of conveyancing by deeds kept in private custody. Financial considerations render it impossible to establish the only kind of register which could give satisfaction—namely a register of parcels of land indexed on a scientifically constructed cadastral map. This is the simple and sufficient reason why the land charges registers have assumed their present form.

In justification of the land charges registers, however, it must be pointed out that if in many cases they have little positive efficacy, they have in all cases an important negative effect. The protection afforded by them is given by their mere existence. The fact that purchasers may search in them is in itself a strong deterrent. A vendor who, but for their existence, might fraudulently suppress matters which a search in them is intended to reveal will hesitate not to disclose them. The risk of immediate detection is too great.

Senile Delinquency.

No: the children cannot have it all their own way. They are, of course, the future generation and all that, and are at a malleable age and the rocking of their cradles is a matter of due import, but some of the older generation are still with us. In time these will pass and there will be, of course, thanks to those who have taken juvenile delinquents in hand, no original sin at all in the next generation but one.

In the meantime, however, what are we doing with our older and old offenders?

There is, of course, preventive detention for the habitual criminal. That means that if a habitual criminal has already scored enough marks against himself, and if the Director of Public Prosecutions consents, and if the jury who try convict him of a suitable offence, and if the judge at his trial would be prepared to give him penal servitude for that offence, and if all the foregoing "ifs" and a few more, that need not be set down at length, are duly and strictly proved, the jury may further find him to be what he was called in the premise, namely, a habitual criminal—and then he is liable to preventive detention.

But it seems a good many "ifs" to the sentence.

The Habitual Criminal machinery, moreover, misses entirely or very nearly a sufficiently deplorable class.

There are people who never do anything very bad, perhaps do not even get within range of penal servitude, but who keep on doing little bad things over and over again.

For example, there is the woman who cannot stop becoming drunk and incapable. Almost the saddest of sad spectacles is one who ought already to be meditating upon her approaching end, but who is instead constantly distracted by having to put up ineffectual little pleas to a magistrate for one more chance. Psychometry and psycho-analysis and psycho-therapeutics avail not here. The only hope—and hope, of course, is there so long as she is—is personal interest and constant, unwearying optimistic endeavour on her behalf.

A fine that she cannot pay, with an alternative that she cannot avoid, keeps her off the drink only for so long as the imprisonment lasts.

There will be backsliding and disappointment, for the job in hand is no less than the recreation of a soul, but souls can be and sometimes are recreated by the grace of God and human endeavour.

The story has been told before of one old dame, whose downfall was the red wine, as it is retailed in our less expensive public-houses. She is not a reader of THE SOLICITORS' JOURNAL, so reference may be made to her case with safety.

The Salvation Army gave her up as a bad job. This is not a reflection on the Army, which is in nine hundred and ninety-nine cases unbeatable over this line of country. The old lady had still preserved, unextinguished by Lisbon wine, a tiny flickering spark of the divine flame, and when everything had been tried and everyone had been consulted, one was found with the skill to fan the spark back to a flame that still burns brightly.

It was just a happy, inspired appeal, penned by the wisdom of a holy woman, hundreds of miles away, that recalled the strength of old, forgotten, but still enduring ties, and the cell that follows after Lisbon wine is, so far as she is concerned, deserted.

If the newspapers are reliable, there are up and down the country men and women who continue on terms of easy familiarity with police courts. Gaolers put them up knowingly and mention their records easily; courts greet them by their first names; reporters write paragraphs and the unfortunates go away again for another twenty-eight days' abstinence, to be succeeded inevitably by another presentation at court. It is obvious that the road to improvement does not lie that way, and it saddens one to think that every little drink so taken automatically reduces the ability to say no to the next one.

So, too, with the petty larcener. There are people in whom the custom has become so strong to take whatever is available that they are unable to resist the temptation and have to appear again and again in court to answer criminal charges.

Punishment loses its sting and efficacy, and, as in the drinker's case, though help may come from outside, the will to win must come from within.

Here is an illustration from actual fact. A prisoner admitted stealing two or three pairs of boots, and it was proved that his history was as follows:—

1918: Stole a bicycle—20s. or ten days.
1919: Stole wool—20s. or ten days.
1919: Stole money from a till—six weeks.
1922: Stole flannel—one month.
1923: Stole socks—three months.
1925: Stole a bicycle—three months.
1926: Stole a bicycle—fourteen days.
1927: Shoplifting and larceny—eight months.
1928: Suspected person—two months.
1928: Stealing a suit-case—three months.
1929: Stealing a purse—one month.
1929: Stealing two pairs of boots—three months.
1930: Stealing five eggs—20s. or fourteen days.
1930: Drunk—one month.
1931: Attempting to steal a car—six months.

There were also five convictions for begging, and the man had a disability pension of 8s.

He did not come within the category of senile delinquents, for he was only in early middle age; but unless something is done about it he will in due course become one.

The function of the social worker in such cases is to discover the "why" of it all and by hook or by crook to supply the inspiration to abolish the cause; the delinquent must do the rest.

It should not be supposed that the majority, or even a great proportion of those who come into criminal courts, are of the persistent type. There are, however, many of this class, and they remain to-day, as before the "Habitual Criminal" was invented, an anxiety and a blemish.

An Incumbent's Tombstone Censorship.

AN architect whose artistic feelings are, perhaps justly, wounded by glaring white marble tombstones, violently obtrusive amongst the gentle greens and greys of English churchyards, calls for action for the future use of local stone or even oak for monuments, and so to restore harmony. As a matter of patriotism he also prefers the employment of English masons for churchyard memorials rather than the adoption of Italian work in stereotype patterns, taken from undertakers' trade catalogues. There is no doubt ample reason to commend a voluntary movement of this kind, and, if taste and patriotism lead to the same end, so much the better. Beneficed clergymen, by legitimate influence and persuasion of their flocks, can materially assist such a cause. The question how far a clergyman should use the iron hand of compulsion when the touch of the velvet glove of persuasion has failed is, however, another matter. In law the churchyard is the incumbent's freehold, subject almost, but perhaps not quite invariably, to the parishioners' rights of burial—actually exercisable, of course, by their executors or surviving relatives. In strict law, there is no right to erect any stone, involving a permanent loss to the incumbent's right of pasturage, a point referred to in *Keet* v. *Smith* (1876), 1 P.D. 73. Actually, no incumbent would think of forbidding a suitable headstone, and, when a headstone is in position, the relatives usually appropriate the whole mound above the grave, sometimes enclosing it in a kerb-stone. The above case, which was quoted in a former note on the subject, see 70 SOL. J. 554, is authority for the proposition that the incumbent's right is controllable by the chancellor of the diocese, if exercised unreasonably. In that case, like practically all the others applicable, some of which were quoted in our previous note, the subject-matter of the dispute was the inscription, and it was held that the incumbent's objection to the description of a Wesleyan minister as "Rev." should not be sustained. Most of the other cases concern prayers for the dead. Objection on æsthetic grounds, however well founded, may involve more difficulty. Quotation may perhaps be made from an excellent little book, "The Care of Churchyards," published for the Central Council for the Care of Churches, and illustrated by a series of beautiful photographs. The author states (p. 24): "In practice, the jurisdiction of the Ordinary is delegated to the incumbent in all average cases. The incumbent, therefore, gives permission for the erection of the great majority of gravestones. But he has no power to allow anything unusual in character or size. If application is made for setting up an unusual monument, it is the duty of the incumbent to reply that a faculty is required, and that application must be made to the chancellor through the registrar in the usual way. This is a great protection to the incumbent, of which he should be ready to take advantage in any case of doubt or difficulty." Such a course would no doubt largely free him from the odium of refusing to sanction some eyesore on which a surviving husband or wife has set his or her heart. The criticism of course lies that neither the incumbent, who may be considered a specialist in morals or theology, nor the chancellor, a specialist in law, has greater qualifications as an arbiter of taste than the aggrieved relative. In every diocese, however, there is an advisory committee of persons who are amply qualified to judge whether a monument is suitable to its surroundings, and in practice, where any reasonable doubt exists, a chancellor invariably consults it. In some cases, indeed, he may even defer his own private opinion to that of the committee, but it is arguable that a chancellor who acts in this way practically delegates his authority, and so goes too far.

Churches are, of course, disfigured both inside and outside by many hideous monuments, and not least Westminster Abbey, with its sprawling stone figures and huge and unsightly

emblems. There are also many essentially pagan features in churchyards and cemeteries, such as broken columns, urns, obelisks, etc. To the pretty photographs in "The Care of Churchyards" the compiler might perhaps have added a "Chamber of Horrors" of hideous monuments, a task for which almost any big London cemetery would afford him ample scope.

Company Law and Practice.

CIII.

ALTERATION OF ARTICLES.—I.

In the last two issues of this journal we have been dealing in this column with the alteration of a company's memorandum of association, and from this it seems to follow logically that we should study the manner in which an alteration of the articles of association of a company is achieved. The material section of the Companies Act, 1929, is s. 10. Unlike an alteration of the memorandum, no confirmation by the court is necessary, although the court may, as we shall see, in certain circumstances, grant an injunction to restrain a company from altering its articles.

The method of altering the articles of association is by a special resolution. Such special resolution must be passed by a three-quarters majority of the members voting, either in person or by proxy, if proxies are allowed, at a general meeting of the company of which not less than twenty-one days' notice, specifying the intention to propose the resolution as a special resolution, has been given (s. 117). If the requirements of the Act as to special resolutions are not fulfilled, the special resolution will be invalid, and the alteration ineffective: *Malleson* v. *National Insurance & Guarantee Corporation* [1894] 1 Ch. 200.

The Act expressly provides that the articles of association may be changed "subject to the provisions of this Act and to the conditions contained in its memorandum." Thus, any provision in the articles that an article is unalterable is void. (*Walker* v. *London Tramways Co.*, 12 Ch. D. 705), for when there is a conflict between an article and the statute, the statute will prevail. Another illustration of this is to be found in the case where one of the articles of association provided that, instead of the usual three-quarters' majority required by the Act to pass a special resolution a majority of four-fifths should be required to alter the articles, it was held that the article was void: *Ayre* v. *Skelsey's Cement Co. Ltd.*, 20 T.L.R. 587; 21 T.L.R. 464.

But the law does not allow complete freedom to alter the articles, for s. 22 prevents a member of a company, unless he agrees in writing, from being forced to increase his liability to contribute to the share capital. This section was first introduced by the Companies Act, 1928, and probably is only declaratory of the law as it stood before the passing of that Act, but in view of certain decisions on societies registered under the Industrial and Provident Societies Act, 1893, it was evidently considered desirable to have such a statement incorporated in an Act of Parliament.

Section 10 (2) provides that an alteration to the articles shall be as valid as if originally contained in the articles. Thus an alteration may be retrospective if the power of alteration be properly exercised, for, in the words of LINDLEY, M.R., in *Allen* v. *Gold Reefs of West Africa Ltd.* [1900] 1 Ch. 673, there is "no authority for saying that existing rights founded on . . . alterable articles cannot be affected by their alteration." But though this is so, a company cannot, at any rate without risk, avoid its contracts by altering its articles.

In *Punt* v. *Symons & Co. Ltd.* [1903] 2 Ch. 505, BYRNE, J., at p. 511, says: "A company cannot contract itself out of the right to alter its articles." But though a company could not contract itself out of this right, there might be cases where, as ROMER, L.J., says, in *Allen* v. *Gold Reefs of West Africa*, *supra*, at p. 679, "special contracts might be made with particular classes of shareholders or individuals or special obligations to them might be incurred by the company, and that even by virtue of the original articles alone, which would prevent the articles being altered as against them or prevent the alterations being enforceable against them." An example of an alteration being unenforceable is provided in the case of *Baily* v. *British Equitable Assurance Co.* [1904] 1 Ch. 374. The facts in that case were, that the plaintiff took out an insurance policy on the terms of a printed prospectus issued by the company, which provided (*inter alia*) that the entire profits after deduction of expenses were to be divisible amongst the policy-holders. Some time after the plaintiff had taken out his policy the company altered its articles by providing that a reserve fund should be established by setting aside 5 per cent. of the profits until a certain sum was reached. The Court of Appeal held that there was a contract for value, and that the company ought not, by means of a special resolution or otherwise, be allowed to break that contract, and it confirmed the declaration of KEKEWICH, J., in the court below. This judgment merely declared that the company ought to distribute the entire profits among the policy-holders in accordance with the terms of the prospectus. It should be noted that no injunction to restrain the company from altering its articles was granted.

But in *British Murac Syndicate* v. *Alperton Rubber Co. Ltd.* [1915] 2 Ch. 186, SARGANT, J., went a step further, by holding that a member of a company was entitled to an injunction to restrain the company from altering its articles, because such alteration would interfere with rights given to him by an agreement between him and the company. In this case the plaintiffs had, by virtue of an agreement, and also by a clause of the articles of association, power to nominate two directors to the board of the defendant company. The defendant company, wishing to rid itself of these nominees, called a meeting in order to pass a special resolution to alter the article dealing with the nominee directors. The plaintiffs claimed (1) a declaration that the nominated directors were directors; (2) an injunction to restrain the defendant company from preventing them acting as directors; (3) specific performance of the agreement, and (4) an injunction to restrain the defendants from holding the meeting to pass the alteration. SARGANT, J., granted the injunction to restrain the defendants from holding the meeting to pass the alteration, on the grounds that *Punt* v. *Symons & Co. Ltd.* (*supra*), had been overruled by *Baily* v. *British Equitable Assurance Co.* (*supra*). This decision has been the subject of much discussion. For, although the headnote in *Baily* v. *British Equitable Assurance Co.* (*supra*), says "*Punt* v. *Symons* not followed," all *Baily* v. *British Equitable Assurance Co.* would appear to decide is that any alteration in the articles will be ineffective to alter the terms of a contract as between the plaintiff and the defendants.

(*To be continued.*)

SOLICITOR'S FRAUDS.

FORMER CHURCHWARDEN SENT TO GAOL.

Edmund Henry Holt, sixty-one, a solicitor, in practice at Weston-super-Mare for the past twenty years and a former churchwarden there, was sentenced by Mr. Justice Acton, at Somerset Assizes at Taunton on Wednesday, to three years' penal servitude on four charges, to which he pleaded guilty, of fraudulent conversion of clients' money amounting to £671 13s.

Mr. F. A. Wilshire, for Holt, pleaded that his bankruptcy some twelve months ago and other adverse circumstances accounted in some measure for this lapse in an otherwise unblemished career.

Counsel suggested that the money had been appropriated to meet moneylenders' demands, and not for extravagant living, drinking or gambling.

A Conveyancer's Diary.

Sale of Partnership Property.

One of the difficult questions which arise under the L.P.A., 1925, is the position regarding property held by partners as part of the partnership property.

Before 1925 a purchaser was often in the position of having to inquire who the partners were, for it seldom happened that the land had been conveyed to the grantees upon trust for sale. It might have been expected that the L.P.A. would have made some provision to the effect that land held as partnership property should be held upon trust for sale. That was not done in terms. It remains to be seen whether there are any provisions which have that result.

In the first place, take the transitional provisions.

If immediately before the commencement of the L.P.A. land was held in trust for persons in undivided shares, it became subject to a trust for sale.

If, therefore, land held upon trust as part of partnership assets can be said to be held for persons in undivided shares, the transitional provisions apply. It seems, however, that the partners are not entitled to the land in undivided shares. That appears settled from the decision in *Re Bourne* [1906] 2 Ch. 427.

In that case the question for decision was whether a surviving partner could sell or mortgage the real estate vested in him on behalf of the partnership, and it was held that he not only could but ought to do so for the purpose of winding up the partnership.

The importance of the case for the present purpose is that the court considered the whole position in such a case, and the result of the decision is that partnership property, real or personal, is to be regarded as personalty, and the partners' beneficial interest is not in the land but in the proceeds of sale.

Romer, L.J., said: "It is to be borne in mind that the real interest of the partnership in real estate is of a personal character, because wherever the legal estate may be, whether it is in the partners jointly or in one partner or in a stranger, it does not matter, the beneficial interest in the real estate belongs to the partnership, with an implied trust for sale for the purpose of realising the assets and for the purpose of giving to the two partners their interests when the partnership is wound up and an account taken."

Partners, therefore, are not beneficially entitled to the land in undivided shares. Their interests are in the net proceeds of sale after discharge of the liabilities of the firm. The transitional provisions, therefore, do not apply.

Now turn to s. 36 (1) of the L.P.A.:—

> "Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants the same shall be held on trust for sale in like manner as if the persons beneficially entitled were tenants in common but not so as to sever their joint tenancy in equity."

This sub-section also does not resolve our difficulty. Partnership property is not beneficially limited to or held in trust for persons as joint tenants. The beneficial interests are certainly not of that nature apart from the decision in *Re Bourne*.

It has been suggested that the land is held upon trust for sale under s. 34 of the T.A., 1925, but I am unable to see how that can be.

The practical question is—what should a purchaser require where he has contracted to purchase partnership property?

Of course, if the purchaser has no notice of the fact that the land is partnership property, no question will be raised. He can take his conveyance from the surviving joint tenant or joint tenants. That position will not often arise.

Let us suppose the common case where two partners have acquired land out of partnership assets, and it has been conveyed to them as joint tenants to hold as part of the partnership property. One of the partners dies.

In that case the surviving partner holds upon an implied trust for sale for the purpose of winding up the affairs of the firm. It will, however, be necessary for him to appoint another trustee to act with him so as to give a valid discharge for the purchase price: L.P.A., s. 27 (2).

Trouble may however be caused by the purchaser having notice that the survivor of the partners in whom the land was vested is not the only surviving partner in the firm although the two partners may have been the only partners at the date of the conveyance.

In such a case an implied trust for sale may not arise as the partnership may continue between the surviving partners and there will be no necessity for a sale for the purpose of winding up the partnership. Then, as it seems, the purchaser will be put on his inquiry as to who the partners are and must obtain their concurrence in the conveyance or in a deed of appointment of trustees upon trust for sale.

Another case that not infrequently arises is when partnership property is vested in one of the partners although not upon trust for sale, and a sale is desired not for purposes of winding up the partnership but for some other reason.

Then, again the purchaser having notice of the partnership must satisfy himself who the partners are and obtain the concurrence of all of them.

It is a very unsatisfactory state of things, and it is certainly a pity that no specific provision is made in the L.P.A. on the subject.

It may, of course, be that the court would hold that in any case where partnership property is vested in some or all of the partners as joint tenants it is held upon an implied trust for sale. If so the difficulty would be resolved, although, of course, the sole survivor of the partners in whom the land was vested would have to appoint another trustee to act with him. The appointment of an additional trustee is, however, a small matter.

The real trouble is that a purchaser has to inquire who the partners are. In many cases, no doubt, a purchaser can easily be satisfied on that point. There may, however, be cases where there is a dispute on the subject of who constitute the firm, and where that is so the position of the purchaser will not be an enviable one.

Charity—Bequest "unto my Country England."

I notice that the Court of Appeal has over-ruled the decision of Bennett, J., in *Re Smith: Public Trustee* v. *Smith* [1931] 2 Ch. 364; 75 Sol. J., 780, on which I commented some time ago. The decision of the Court of Appeal is reported in the W.N. at p. 237.

The learned judge considered that the gift was not one which must necessarily be confined to charitable purposes, and that in using the expression "unto my country England," the testator could not be clearly regarded as having intended that the bequest should operate in favour of His Majesty's Treasury. The gift therefore failed.

The Court of Appeal took the contrary view, which I thought at the time was the correct one. Although in general terms, the gift would have to be applied for charitable purposes as in *Att.-Gen.* v. *Webster* (1875), L.R. 20 Eq. 483, and the Court of Appeal accordingly declared that the gift was valid for charitable purposes and should be transferred to such persons as His Majesty should direct.

HUMOUR AND THE LAW.

Lawyer.—I must know the whole truth before I can successfully defend you. Have you told me everything?

Prisoner.—Except where I hid the money. I want that for myself.

Landlord and Tenant Notebook.

Notice to Quit after Death of Tenant.

A landlord who wishes to determine a periodic tenancy when the tenant has died may find himself in a difficulty. It is hardly necessary to say that the death does not itself put an end to the estate. This argument has been put forward in reported cases, but from the reports it is clear that it was used rather as a makeweight than as an argument of substance. In *Doe d. Shore* v. *Porter* (1789), 3 T.R. 13, the main questions were whether the deceased tenant had had the interest claimed, and whether his administrator could claim a yearly tenancy after pleading a seven years' lease; the questions whether a yearly tenancy vested in an administrator and whether the usual six months' notice was then necessary were, however, raised, and were answered in the affirmative. In a poor law settlement case, *R.* v. *Inhabitants of Stone* (1795), 6 T.R. 295, the pauper had lived with his father-in-law in a cottage held by the latter on a yearly tenancy; the father-in-law had died, leaving his personal estate to the pauper, whom he also appointed sole executor; the pauper then continued to occupy the cottage for three years, and paid the rent. He did not prove the will till three days before his removal to Stone. The argument that all he derived from the deceased was a tenancy determining at the end of the year of the tenancy was rejected, and as no notice to quit had been given, he fulfilled the necessary requirement of forty days' residence coupled with an estate. The question was also raised in *Maddon* v. *White* (1787), 2 T.R. 159; this was an action for ejectment, in which the substantial question was whether a lease by an infant was void or voidable; it was, however, decided that as no notice to quit had been given by or to the infant landlord, the defendants, who had been in occupation as yearly tenants when he inherited the reversion, would succeed even if the new grant made by him were void.

It is, however, the service of the notice to quit which may present difficulties, at all events if the tenant has left no will and no one takes out letters of administration. If there is an administrator, notice can, of course, be served on him, or, as was held in *Doe d. Prior* v. *Ongley* (1850), 20 L.J.C.P. 26, on his solicitor. If there be none, the question whether a notice to quit can be served on a person in possession is one which has given rise to some speculation, owing to a dearth of authority on the matter. The only English case appears to be *Rees* v. *Perrot* (1830), 4 C. & P. 230, in which notice had been served on the tenant's widow. In the ejectment proceedings it was held that the defendant could succeed by showing either that a will had been made or letters of administration granted, but it is not quite clear from the report whether the effect of the judgment is that a widow in possession will be deemed to be the personal representative unless the contrary be shown or that if there be no evidence of will or administration the party in possession may in all cases be treated as tenant. The wording seems to favour the contention that the decision merely lays down a rule of evidence, placing the onus on the occupier. For the subsequent developments we must turn to Irish decisions.

Dowse, B., of the Irish Court of Exchequer, tritely expressed the landlord's position by an apt metaphor: "Must he raise a giant in order to slay him?" which he employed in *Sweeny* v. *Sweeny* (1876), I.R., 10 C.L. 375, and again in *M'Neill* v. *M'Laughlin* (1883), 12 L.R.Ir. 260. In the former case, the widow of the intestate tenant had remained in occupation, paid rent, had then been given notice to quit, and left when it expired. The landlord then let the premises to the defendant. After that, the son of the intestate took out letters of administration and sued for possession! Lengthy judgments delivered by the four judges testify to the difficulty of the case, in which the court to its surprise could find no direct authority. By a majority, judgment was given for the defendant, Fitzgerald, B., being the dissentient. The majority thought that *Rees* v. *Perrot* laid down a rule entitling a landlord to serve notice on the occupier; Fitzgerald, B., that it was a case of estoppel, so that third parties could not be bound.

Immediately after this case, the Notice to Quit (Ireland) Act, 1876, was passed, and this statute, which provided that in the case of certain tenancies notice to quit might be addressed to the "representatives" of the deceased tenant, was relied upon by the landlord in the second case, in which the defendant was the administrator of an intestate tenant; since the death, however, the widow had occupied for a time and paid rent; and the notice had been addressed to him as her representative. On these facts, Dowse, B., and his brethren held that the widow had never been tenant, and explained that *Sweeny* v. *Sweeny* gave the landlord the right to treat a person in possession as his tenant; in this case the landlord had not exercised that right, but had served a defective statutory notice.

The view taken by the Irish courts rests partly on the ground of convenience and partly on the interpretation of *Rees* v. *Perrot*, *supra*. I have suggested that the interpretation in question is wrong, and this opinion is strengthened by a perusal of two cases dealing with a similar point. In *Doe d. Batten* v. *Murles* (1817), 6 M. & S. 110, the purchaser of a term, sold under a writ of *fi. fa.*, proved his case by showing: (1) a grant to defendant's father; (2) intestacy of the father; (3) possession by defendant's brother; (4) letters of administration granted to the brother; (5) a conveyance of other property by the defendant of the brother's personal representative; and (6) possession by defendant. He was *presumed* to be either assignee or administrator, and it was for him to show the contrary. In *Doe d. Morris* v. *Williams* (1826), 6 B. & C. 41, a notice to quit had been served on a son-in-law of the original tenant. The tenant had moved out and the son-in-law taken possession during the term, and no rent had been paid since. The court held that the notice was good, as the person in possession was presumed to be an assignee; and there was nothing *to rebut the presumption*. The use of this word suggests that the decision in *Rees* v. *Perrot* lays down a rule of evidence, rather than a p inciple of the substantive law of landlord and tenant.

Our County Court Letter.

MORTGAGEES' RIGHT OF FORECLOSURE.

The circumstances in which the above may be exercised were recently considered at Caernarvon County Court in *George* v. *Roberts*, in which the claim was for payment or alternatively foreclosure. The plaintiff had taken a transfer of the security from an earlier mortgagee in January, 1931, when the defendant was described in the deeds as Mary, the wife of William Houghland, but the evidence was that (*a*) in 1927 the defendant was married to one Roberts, who (after serving two terms of imprisonment under a maintenance order) had obtained a revocation thereof from the magistrates, (*b*) the said Roberts had been turned out of the mortgaged property by the defendant and Houghland, who subsequently lived there together, (*c*) a committal order had been made against the defendant for non-payment of law costs amounting to £25. The defendant's case was that (*a*) there were no arrears of interest, (*b*) the mortgaged property was left to William Houghland (her brother-in-law) by his aunt under her will, but it transpired that the testatrix was still alive and living abroad. His Honour Judge Sir Artemus Jones, K.C., observed that (1) far from being in arrears, the defendant was in advance with her interest payments to the original mortgagee, from whom the plaintiff had taken a transfer, (2) it was unusual to call in the principal immediately following a

transfer, but the fact of the owner of the property being abroad showed that the defendant must have negotiated the mortgage by false pretences, (3) although the action had been begun precipitately, it would be in the defendant's own interests to grant the plaintiff's application. An order *nisi* for foreclosure was therefore made, the defendant to pay the costs of one only of the two days' hearing.

DEPENDENCY UNDER THE WORKMEN'S COMPENSATION ACTS.

THE above subject has been considered in two recent cases. In *Marsh* v. *The Rover Company Limited*, at Coventry County Court, the applicant claimed an award by reason of the death of her husband while driving a test car for the respondents. The marriage had taken place in 1916, and from 1921 to 1929 the deceased had been an omnibus driver in London, after which he took a florist's shop upon a lease for twenty-one years. In October, 1930, after giving the applicant £2, the deceased had gone away for a month (as he then said) but he had never returned. The applicant (having failed to trace him) was too late for the inquest, where it transpired that the deceased had assumed the surname of a housemaid employed by the applicant three weeks before his departure. The average weekly earnings of the deceased, as a motor test driver, were £5 16s. a week, but the average weekly profits of the florist's business (from April to July) had been 14s. 11½d. The respondents contended that, if the applicant had traced the deceased and summoned him for maintenance, his defence would have been that he had left her the business, and that she was not a dependent. His Honour Judge Drucquer pointed out, however, that the business was unsuccessful, and an award was, therefore, made in favour of the applicant (and her five children) of £450.

In *Carder and Others* v. *George Sands and Sons Limited*, at Nottingham County Court, the deceased had contributed 35s. a week to a household consisting of himself, his wife, their married daughter, son-in-law and eight grandchildren. The respondents had paid £300 into court in respect of the widow, but the married daughter and grandchildren also claimed to be partial dependents, as the two families lived as one. The respondents argued, however, that sharing the house did not constitute dependency, and His Honour Judge Hildyard, K.C., upheld this contention and decided that an adequate amount had been paid into court. See *Fife Coal Company Limited* v. *M'Arthur* [1926] W.N. 333.

Correspondence.

The Central Discharged Prisoners' Aid Society.

Sir,—How often one reads in the press that a sentence of imprisonment has been passed on an offender.

To the majority of people there is no further interest in the matter beyond, perhaps, a passing thought as to the nature of prison life and what happens to the prisoner on the expiration of his or her sentence.

At the annual meeting of the above society, held in London on 2nd July last, I was unanimously requested to put before you the work done in all parts of the country by the Discharged Prisoners' Aid Societies which assist nearly 30,000 discharged prisoners annually without regard to age, sex or creed.

Established at every prison and working in closed prison areas throughout England and Wales, there are over fifty local Discharged Prisoners' Aid Societies, officially recognised by H.M. Secretary of State and embracing a vast network of voluntary service. The committees of the various societies meet regularly to consider the prospects of prisoners and make every effort to re-establish them in civil life and thus restore their self-respect and prevent their becoming a further charge on the community.

"Charity hopeth all things," and the records show that numbers helped in their hour of need have made good and become respectable and honest citizens.

In these days of economic pressure the societies throughout the country are faced with problems of the utmost difficulty.

I earnestly appeal, therefore, to the charitable public, in all areas, to enable their local Discharged Prisoners' Aid Societies to carry on this essential work.

On application I shall be pleased to send a list of the societies serving the various prisons and districts in England and Wales, and any contribution received and earmarked for any particular local Discharged Prisoners' Aid Society will be remitted to that society.

Victory House,
Leicester-square,
London, W.C.2.
10th November.

F. P. WHITBREAD,
President.

The Municipal Election Pluralist.

Sir,—In the "Current Topics" columns of THE SOLICITORS' JOURNAL issue of the 31st ultimo, under the above heading, appears a statement as to the effect of s. 27 of the Representation of the People Act, 1918—which provides that his deposit shall be forfeited if the candidate obtains less than one-eighth of the votes polled—this statement seems to have been prepared without due regard to sub-s. (2) of that section, under which, for the purposes of s. 27, the number of votes polled is to be deemed the *number of ballot papers counted*, which of course excludes spoilt papers.

The application of this sub-section may put a very different complexion on the question as to whether a deposit is or is not forfeited.

AN APPRECIATIVE WEEKLY READER.

10th November.

Historical Deeds and Documents.

Sir,—At the last meeting of the Council of the Surrey Archæological Society, the following matter was brought up for consideration. It appears that from time to time firms of solicitors are bound for reasons of space to destroy documents which no longer have a practical legal value. Such documents are generally sent to the paper merchants to be pulped. Experience has shown that not infrequently documents of real historical value occur in such consignments.

Of course the great expense involved would prevent systematic search through all these documents; but there are members of the Surrey Archæological Society and the Surrey Record Society who occasionally have some spare time, and if they had the opportunity would be glad to go through such papers with a view to seeing if they contain anything of value.

I was asked by my society to write to all the firms of solicitors in Surrey drawing their attention to this matter and asking them whether, should they be obliged to destroy a mass of old documents, they would be willing before doing so to notify the Hon. Secretary of the Surrey Archæological Society:—

Miss O. M. HEATH,
Albury, Guildford.

If there were, at the time, any member of either society available who would be able to go through the papers, it was suggested that perhaps the owners would get into touch with them through Miss Heath.

I have written to all the Surrey firms whose addresses the society has been able to obtain, but I may have omitted some, and if I have, may I venture to ask your help in drawing attention to this matter?

I ought to add that of course the papers found would naturally remain the property of the owners; that no expense

to the owners would be involved if they permitted a search, but that possibly the owners might reap advantage since amongst documents of this kind papers of no inconsiderable pecuniary value have been discovered.

ONSLOW,
President Surrey Archæological Society and
Vice-President Surrey Record Society.

London, S.W.
5th November.

Punishment by Department instead of by Law.

Sir,—In Saturday's *Daily Telegraph* I read an account of a case before the Lord Mayor, which came before his lordship on a summons issued against certain people for smuggling silk by aeroplane. When the case was called someone representing the Customs Department said that the case had been settled, and that the summons would not be proceeded with.

The Lord Mayor very properly objected to this, and, according to the account in the *Telegraph*, was informed that he had no right to object nor had he any right to say anything on the subject as that was entirely for the department whom the learned gentleman represented.

I have no time to look up the law of the case, but if you would very kindly look at the account in the *Telegraph* you might give one of your illuminating leaders on the account, as no doubt many solicitors will be asked how it is possible for an offence to be committed, a prosecution instituted, and the prosecution withdrawn without the consent of the tribunal before whom the prosecution came.

I strongly dislike this un-English procedure, if the *Telegraph* report be, as I have little doubt it is, correct.

London, E.C.2. E. T. HARGRAVES.
9th November.

[We are indebted to our correspondent for his letter and hope to deal with the point in our next issue.—ED., *Sol. J.*]

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 16th November, 1750, Edmund Law, Bishop of Carlisle, was presented with a son, who eventually became Lord Chief Justice of England, with the title of Lord Ellenborough. Edward Law became Attorney-General in 1801, before he was a member of the House of Commons. The King, in knighting him, commented on this fact, remarking: "That is right. My Attorney-General ought not to have been in Parliament for then, you know, he is not obliged to eat his own words." Next year he was appointed Chief Justice of the King's Bench, where his vigorous intellect and great legal knowledge, joined with his intolerance of contradiction and his overbearing disposition, made him pre-eminently a strong judge. Many suffered through his bitter tongue and stinging sarcasms, despite his early resolution not to follow the example of his predecessor, Lord Kenyon, under whose insults he, in common with the rest of the Bar, had often suffered. Not the least remarkable, though certainly not the most laudable event of his judicial career, was his acceptance of a seat in the Cabinet during his term as Chief Justice—a circumstance unique in our legal history. He also broke a tradition when he moved to St. James' Square. Till then no judge had lived in the West End of London.

HIS OWN CLIENT.

His Honour Judge Dumas recently remarked, according to the press, that "the man who acts as his own lawyer does not have a very wise client as a rule." It does not appear, however, that he had occasion to complete the commentary as corrected by Lord Lyndhurst when he tried Cleave, the newsvendor, in the Court of Exchequer. The prisoner, who defended himself, remarked at the outset that he was afraid that before he sat down he would give an illustration of the saying that "he who acts as his own counsel has a fool for his client." "Ah, Mr. Cleave," said the Chief Baron, "don't you mind that adage. It was framed by the lawyers."

A MATTER OF DRESS.

Once more Mr. Justice McCardie has had to investigate how far the income of a married man is his own and how far it is the lawful perquisite of his wife's dressmaker. When clothes are in issue, woman is always at her most intractable, as Mr. Justice Patteson found long ago when he tried to explain a point of law to a lady at the Warwick Assizes. A prisoner was on trial for the theft of a quantity of female underclothing, and chemises, drawers and those flannel petticoats, on whose fall from feminine favour McCardie, J., has commented, lay about the court. When the lady in the case proceeded to give evidence that they were hers, the learned judge, perhaps a little pedantically, corrected her, saying: "You identify them, dear madam, but they are not your property." "Yes, my Lord, they are," she insisted. "No, no; you wear them and you know them, but those chemises are your husband's." "No, my lord, my husband doesn't wear such things. They are mine." "Nonsense, my dear lady, I know you wear them, but they are your husband's." But the witness was not convinced any more than all the Queen's judges could explain to a more august lady the legal implications of "Not Guilty. Insane."

LADY CAVE'S DESTINY.

To the recently published memoir of the late Lord Cave, L.C., Lady Cave has written an introduction. In her own charming book she has already described how at a very early age she decided to marry a barrister who should be Lord Chancellor. Thus it was. She happened to overhear her aunt, whose maid had left her to get married, remark regretfully: "To think that after all those years in our service Emma should leave us to marry a barman and to be constantly demeaning herself by drawing beer for drunkards." The phrase stuck in the child's memory and when soon after she heard her father exclaim that he wished with all his heart he had gone to the Bar, she chimed in with: "And be constantly demeaning yourself by drawing beer for drunkards." Puzzled and amused at the remark, her father forthwith explained to her the true significance of being called to the Bar and drew so rosy a picture of the prospects, with the culminating possibility of the Chancellorship, that his little daughter at once determined to marry a "barman" of that description. So she did, but when her husband became first Home Secretary and then a Lord of Appeal her highest ambition seemed to fade away until in 1922 it was suddenly realised and the Great Seal was his.

Obituary.

MR. R. L. KENYON, M.A., J.P., D.L.

Recorder of Oswestry from 1896-1927, Mr. Robert Lloyd Kenyon died recently at the age of eighty-one. He was Chairman of Shropshire Quarter Sessions 1914-27, Alderman of Shropshire County Council 1889-1928, and Chairman of Shropshire Insurance Committee. Educated at Winchester, Christ Church, Oxford, he obtained second-class in Law and History in 1870, was Vinerian Law Scholar in 1872, graduating M.A. in 1873, and was called to the Bar by the Middle Temple in 1873, going the Oxford Circuit. He was well known as a numismatist, and his publications included the second and third editions of "Hawkins' Silver Coins of England," 1876 and 1887, "Kenyon's Gold Coins of England," 1884, and also the "History of the Parishes of Ruyton in Shropshire Archæological Transactions." He married Ellen Frances, daughter of the late Dr. W. W. How, Bishop of Wakefield.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Intestacy—Descendants of Brother.

Q. 2332. A spinster dies intestate, leaving (so far as can be ascertained) five children of a deceased brother and four children of a deceased child of another brother. In other words there would appear to be now surviving the intestate five nephews and nieces, issue of one deceased brother, and four children of a deceased niece. Would you kindly say who, in your opinion, is entitled to take the grant of letters of administration, and who are the persons entitled to share in the estate.

A. Any of the persons named can apply assuming the brothers were both of the whole blood to deceased; if any of the beneficiaries are infants, there must be two applicants. The estate will be divisible into moieties, and each moiety divisible between the descendants of one brother who attain twenty-one or marry.

Mortgage—Vacating Receipt—Operation as Transfer.

Q. 2333. In 1908 leasehold property was assigned to A and it was stated in the deed that the purchase money was paid by A. A mortgaged the property immediately after purchase to B. In 1917 A. executed a memorandum (unstamped) in which it was recited that A held the property in trust for C and it was declared by A that in consideration of C paying off part of the mortgage A held the property in trust for C subject to the mortgage. C has received the rents and profits since 1908 for her own use without acknowledging A's title. On 1st January, 1926, the L.P.A. operated to convert the mortgage into a mortgage by demise and to vest the property in C subject to the mortgage. The mortgage to B was paid off in 1927 and a receipt endorsed which contained the words "the payment having been paid by the within-named A the mortgagor." C has recently died and his executors now desire to sell the property. Can they make title to the property notwithstanding that the mortgage was paid off and the receipt given to A before C's death? We act for the purchaser, and contend that the effect of the receipt endorsed on the mortgage was to transfer the mortgage to A and that A must join in the assignment. The vendors offer a statutory declaration setting out the above facts. Contend that that will be sufficient to perfect the title. A is now of unsound mind, but no receiver or committee has been appointed. If A must make title to the property what would you suggest as the easiest and cheapest way of enabling this to be done? The agreed price of the property is £600 and A has no estate.

A. We agree with our subscriber's contention. If the declaration of trust is put on the title, as in our opinion it must be, then the mortgage money appears by the receipt to have been paid by a person not entitled to the immediate equity of redemption and will operate as if the benefit of the mortgage was by deed transferred to A. It should be noted that s. 115 (2) of the L.P.A., 1925, does not so much seem to be concerned with the facts, as with what appears from the face of the documents. We doubt whether evidence, now procured, that the payment, though made by A, was made with money in his hands as a trustee properly applicable for the discharge of the mortgage would improve the position. In view of the relatively small value of the property we suggest that the purchaser might be willing to complete on having the suggested declaration coupled with an insurance company's indemnity. If this cannot be arranged it would appear that an application to the court under s. 41 of the T.A., 1925, is necessary. See also s. 54.

Will—Trust for Sale—Conveyance to Beneficiaries.

Q. 2334. A by his will appointed B and C executors and trustees thereof. A died in 1928, and his will was proved by C, the surviving executor (B having pre-deceased the testator). A by his will gave all his real and personal estate upon certain trusts. The trusts relating to the real property were not clear, and the executor petitioned in Chancery on the matter. The court made a declaration in the order as follows: "This court doth declare that subject to payment of the testator's funeral and testamentary expenses and debts the proceeds of sale of the testator's real estate vested on the death of the testator absolutely and free from any gift over in the four children of the testator who survived him." The real estate has not been sold, and the four children who are now "*sui juris*," desire the real property to be vested in them absolutely. Can an effective assent be signed by C. having regard to the fact that the will originally appointed two trustees? It would appear from the above extract from the court's order, that the land is not settled land, and that an ordinary form of assent by the proving executor would meet the case.

A. It would appear from the order of the court that there was a trust for sale by the executors. The executor's administration being now complete the executor has become a trustee. The proper form of assurance is, therefore, a conveyance which can be made by the single trustee, there being no capital money to receive. The trust for sale subsists until the property has been conveyed to or under the direction of the beneficiaries (L.P.A., 1925, s. 23).

Ante 1925 Intestacy—Widow Administratrix's Title to Leasehold.

Q. 2335. A, being possessed of a leasehold house, died intestate on the 29th September, 1905, leaving his wife and several children him surviving. Several of the children were very young, but have all now attained the age of twenty-one years. A grant of administration of A's estate was obtained by his widow. The children lived with their mother, and she took the rents of the leasehold house until she died recently. The widow, and the children, regarded this leasehold house as her property. The widow duly made her will and gave her residuary estate to her two younger children, B and C, and for the division of the residuary estate it was agreed with the executor that B should take the leasehold house above referred to, and C, the other residuary legatee, another house of which the widow was the owner. We pointed out to the parties that with regard to the leasehold house, which it was proposed B should have, the mother could only dispose of one-third interest therein, and the other two-thirds belonged to the children equally. They informed us that the other children were quite agreeable to this leasehold house being assigned to B, and would sign any document necessary for the purpose. On the 1st January, 1926, the property was vested in more than four undivided owners and, therefore, the legal estate vested in the public trustee, who has not been called upon to act. We want to know the best way of carrying out the wishes of the parties, namely, that the leasehold house should be vested in B, and it has occurred to us that

the provisions of the L.P.A., 1925, relating to undivided owners, applies only to sales.

A. We do not agree that the legal estate vested in the public trustee. When the administration was completed the widow became a trustee: see *Re Pounder* [1921] 2 Ch. 59, and *Re Pitt; Pitt* v. *Mann* (1928), 47 T.L.R. 371. The property being, on the 1st January, 1926, vested in the widow as trustee for persons entitled in undivided shares, she became trustee for sale on the statutory trusts. The legal estate passed to her executor. We see no way of properly vesting the property in B, except by a conveyance in which, after all the other children have assigned their equitable interests to B, the executor assigns the legal estate to him by direction of the other parties. The other children should be separately advised of their rights and, as far as can be seen, the assignment of the shares to B, to the extent of two-thirds of the value of the property, must be treated as gifts of the several shares, and bear stamp duty accordingly.

Settled Leaseholds—Death of Tenant for Life—Title.

Q. 2336. A died in 1919, having by his will, which was duly proved by B, his widow, and C, two of the executors, left leasehold premises to B for life, and after her decease to D, and other property, both real and personal, to be divided subject to a life interest to B between other beneficiaries equally, though it was first to be offered to them in shares specified by the testator. The executors were also appointed trustees and given a power of sale to be exercised if the beneficiaries did not desire to receive the property as to be specifically offered to them. B died about two years ago intestate, no vesting deed having been made in her favour and no letters of administration have been taken out to her estate. D has now bought the freehold reversion of the leasehold devised to her under the will and it is now desired to vest the leasehold interest in D. Can C, as surviving executor of the will, do this, or what steps must be taken? There are less than six years of the lease to run.

A. If B was let into possession of the leasehold house it can be assumed that the bequest to her for life was assented to prior to 1925. In that case the legal estate vested in B and administration must be taken out to her estate, and the administrator can assent to the vesting in D. If there is any doubt as to the implied assent, and therefore as to the passing of the legal estate from A's executors to B, the difficulty can be got over by C, and B's administrator(s) (when appointed) joining in the assent, one as personal representative of A, the other(s) as personal representative(s) of B, the assent reciting a doubt as to whether the legal estate had become vested in B.

Settled Land—Right to Possession.

Q. 2337. A, who died in 1931, by his will, recently proved, gave to his executors (called "his trustees") free of duty, his leasehold dwelling-house in trust for his wife B during her widowhood, she paying the rent, rates and taxes and outgoings and keeping the property insured against fire and in good repair and duly performing and observing the lessee's covenants, etc., the trustees to see to the insurance of the property without responsibility for any omission so to do and after the death or re-marriage of B, he declared the said property should fall into and form part of his residuary estate. By a later clause in his will A declared his trustees might at any time during the widowhood of B, with her consent in writing, sell the property and the net moneys arising from such sale should sink into and form part of his residuary estate so that B during her widowhood should be entitled to the income arising from the same. The trustees were given power at the request of B to lay out the net moneys arising from any sale in the purchase of a freehold or leasehold house, upon the like trusts as are before set out. B has intimated her intention of residing in the house, and, taking the first-mentioned clause by itself, B would clearly appear to be tenant for life of the property under the S.L.A. during her widowhood, but the question arises does the clause providing for the consent of B to a sale by the trustees bar her right to call for an assent by the trustees of the property to her under the S.L.A., and leave the property vested in the trustees under the general trusts of the will?

A. When the administration of A's estate is completed, B can claim to have a vesting assent executed, and having then the legal estate, can take possession. She cannot *claim* possession until the administration is complete. The trustees' power of sale is overridden by the statutory provisions.

Mortgage—Vacation by Sole Surviving Executor.

Q. 2338. A mortgaged a portion of his real estate to B to secure repayment of certain mortgage moneys. B died leaving two executors, C and D, to whom interest on the said mortgage moneys has been paid since B's death. A recently died and his executors contracted to sell a portion of the mortgaged property. Since the date of the contract C has died, leaving D the surviving executor of B's will. Can D by himself give a valid receipt on payment of the said mortgage moneys, or must there be an appointment of a new trustee to join with him in the receipt?

A. We know of no reason why D, as the sole surviving executor of B, should not alone vacate the mortgage or give a receipt for the mortgage moneys. We take it that our subscriber has in mind the restrictions contained in the recent property legislation on the powers of a sole trustee to give receipts in certain cases. These restrictions are inapplicable to the case in point and do not apply to a personal representative.

Mortgage Sale by First Mortgagee to Third.

Q. 2339. I am acting for the first mortgagee of leasehold premises who is in a position to sell, and while preparing to offer the property for sale by auction, has received an offer which is sufficient to cover what is due to her. There are two mortgages behind the first, and the offer has come from the third mortgagee. The offer has been reported to the second mortgagee, with the intimation that it will be accepted unless he is prepared to take over the first mortgage. The second mortgagee strongly objects on the ground that the price, in his opinion, is inadequate, and that he has obtained a valuation at a higher figure, and calls upon the first mortgagee to put the property up for sale by auction. I do not think it is easy for any one to say at the present time whether a price is adequate or not, but there is no doubt in this case that *twelve months ago* the price offered would not have been adequate. If the first mortgagee refuses this offer and fails to sell at the auction, she will, at Christmas, be very heavily out of pocket as, in round figures, there will only be four months' rent in hand (about £270) to meet (*a*) nine months' ground rent (£172 10s.); (*b*) nine months' interest (£236 5s.); and (*c*) the year's income tax (about £150); and furthermore, it is believed that the tenant is not in a very satisfactory position and is trying to find an assignee as he is losing money on the property. The first mortgagee's attitude so far is that if the second mortgagee does not pay her off she will accept the offer. The second mortgagee's reply is—"If you accept this offer we shall hold you responsible for any loss we suffer on the ground that the price is inadequate." The only real test as to whether a price is adequate or not is, presumably, to offer the property for sale by auction, and does it therefore come to this, that it is not safe for a mortgagee to sell privately unless he obtains the concurrence of all parties interested.

A. The questioner is referred to *Kennedy* v. *De Trafford* [1897] A.C. 180. Having regard to the protest of the second mortgagee and to the admitted fact that a year ago the price would have been inadequate, we think that an offer should be made to the second mortgagee that the property will be offered for sale by auction if the second mortgagee will guarantee the costs of the auction if, in the result, a sufficient sum is not realised to pay the total claim of the first mortgagee.

Reviews.

A Treatise on the Law of Sale of Personal Property. By JUDAH PHILIP BENJAMIN. Seventh Edition. By His Honour Judge A. R. KENNEDY, K.C. London: Sweet & Maxwell, Ltd. 1931. xlviii and (including Index) 1,130 pp. £3 3s.

This is one of the great books of the law, and as such has been recognised by many of our most distinguished judges and practitioners. First published in 1868, not long after the author, after being successively Attorney-General, Minister for War and Secretary of State in the Secession Ministry of Jefferson Davis, sought refuge in England and was called to the Bar at Lincoln's Inn, the work was acclaimed as of sterling merit, and the reputation it immediately acquired has been well maintained by those who have been responsible for successive editions. For the editorship of this, the seventh edition, the publishers have been fortunate in securing the services of Judge Kennedy, who by his own work on c.i.f. contracts has shown himself a master of that branch of the subject—an excellent preparation for the editorial supervision of Benjamin. As he tells us in the preface, the editor has added 225 decisions, although, as he adds, by cautious elimination he has been able to effect an appreciable reduction in the size of the book. A mechanical drawback to the two former editions has been the absence in the work of the text of the Sale of Goods Act, 1893; that defect has now been removed in the present edition, the text of the Act of 1893, along with that of the Factors Act, 1889, and the Factors (Scotland) Act, 1890, being included in the Appendix, accompanied with marginal references to the page or pages in the body of the work where the scope of each section is discussed. We have examined with considerable care the way in which the latest decisions have been dealt with, and we have found that all have been skilfully incorporated in the appropriate places. We call attention to only one or two of those cases. In the previous edition the opinion expressed, that where two or more things are sold for an entire price, or otherwise under an entire contract, and one or more of them have perished at the date of the contract, the contract is also void as to the remainder, has been approved by Wright, J., in *Barrow* v. *Phillips & Co.* [1929] 1 K.B. 574, which is duly cited. It is curious that this, which was the rule of the civil law, has only so recently come up for direct decision in an English court. Another important case of which due note has been taken is *Finlay* v. *Kwik* [1929] 1 K.B. 400—here, as elsewhere, the learned editor has practised a wise economy in abbreviating the very long names of the parties—in which the Court of Appeal decided that a buyer who might otherwise have enforced sub-contracts for the purpose of minimising damages was not bound to do so if this might seriously injure his commercial reputation. An added interest of a personal character is given to this edition by the portrait and the short biography of Benjamin prefixed to the volume. In the biographical note it is not strictly accurate to say that Benjamin received a patent of precedence, "and afterwards became Queen's Counsel." His precise status is correctly stated on the title page, where it is said that he was "one of her late Majesty's Counsel for the County Palatine of Lancaster and holder of a patent of precedence." He was never a Queen's Counsel in the ordinary sense, but his patent of precedence carried with it by courtesy the privileges of that rank. Judge Kennedy is to be heartily congratulated on having carried out his editorial labours with a thoroughness that will be appreciated by the many who will make use of the work.

Bureaucracy Triumphant. By CARLETON KEMP ALLEN, M.C., M.A., of Lincoln's Inn, Barrister-at-Law. London: Humphrey Milford. 5s.

Mr. Allen and others are intent on shaking our national complacency, and perhaps have succeeded in half opening an eye here and there to the trend of change in our constitution and law.

One of the roots of the trouble is the inability of Parliament to do its work. It must delegate or die of congestion. Unwilling to delegate to other elective bodies, its work is gradually, by sheer force of circumstances, falling into the hands of officials.

Another of the causes of trouble is the excessive cost and complication of law. The humble man is terrified into acquiescence in the claims of the rich man or the powerful corporation, because he can be dragged before a succession of appeal tribunals and ruined, whatever be the event. Consequently, a large number of quite good citizens accept the cheap decisions of the government departments with equanimity. They may be wrong. They certainly are arbitrary and secret. But in the long run, it is argued, no more injustice results than from suits in courts of justice.

This is, of course, a shortsighted view. In time the departments inevitably grow more and more arbitrary, the officials less and less anxious for publicity. But then the present practice of the legal profession is shortsighted. It leads to the concentration in a few hands of highly remunerative work, and the gradual drying up of the sources of innumerable small cases. In the interests of both branches of the profession, as a whole, a mass of small work is better than a few expensive suits.

If Parliament become less jealous of such bodies as the county councils, and the lawyers cheapen their work, many of the evils of bureaucracy will tend to disappear.

How very serious these evils are is admirably set forth in these republished papers by one who has made a very elaborate study of the matter and thought fruitfully upon it. We do not accept all his arguments, but he establishes his main points beyond reasonable criticism, and he cites chapter and verse for the convincing of his readers. One small slip appears on p. 93. The Ministry of Transport does not "make" Orders in Council. No doubt the process of drafting for tame acceptance is much the same but, while the forms of the Constitution remain, there is always hope of fresh life being infused into them.

Books Received.

Marriage in Church, Chapel and Register Office. A Practical Handbook, ARTHUR S. MAY, M.A., Barrister-at-Law, Surrogate of Ecclesiastical Courts in Doctor's Commons. Re-issue, with Supplementary Chapter and an Index. 1931. Crown 8vo. pp. viii and (with Index) 96. London: Longmans, Green & Co. 3s. 6d. net.

Principles of Local Government Law. W. IVOR JENNINGS, M.A., LL.B., Barrister-at-Law, Reader in English Law in the University of London. 1931. Crown 8vo. pp. 263, with Table of Statutes, Table of Cases and Index. London: University of London Press, Ltd. 6s. net.

Converting a Business into a Private Company. By HERBERT W. JORDAN, Company Registration Agent. 1931. Ninth edition. Crown 8vo. 50 pp. London: Jordan & Sons, Ltd. 1s. 6d. net.

Company Accounts and Balance Sheets. A Practical Guide for Business Men. By KENNETH and MICHAEL MOORE, Chartered Accountants, with a foreword by SIR WILLIAM R. MORRIS, Bart. 1931. Demy 8vo. pp. vii and (with Index) 142. London: Jordan & Sons, Ltd. 5s. net.

Holding Companies and their Published Accounts. By SIR GILBERT GARNSEY, K.B.E., F.C.A. Second edition. 1931. Large Crown 8vo. pp. (with Index) 315. London: Gee & Co. (Publishers) Ltd. 15s. net.

The Law Relating to Profits for Dividends. E. WESTBY-NUNN, B.A., LL.B., Barrister-at-Law. 1931. Demy 8vo. 30 pp. London: Gee & Co. (Publishers) Limited. 1s. net.

Notes of Cases.

Judicial Committee of the Privy Council.

Attorney-General for Saskatchewan and Another *v.* Attorney-General for Canada.

Lord Dunedin, Lord Hanworth, Lord Atkin, Lord Russell of Killowen and Lord Macmillan. 20th October.

CANADA—PUBLIC LANDS OF PROVINCE ADMINISTERED BY DOMINION—TRANSFER TO PROVINCE—PROVINCE'S CLAIM AGAINST DOMINION—ACCOUNT FOR LANDS ALIENATED BEFORE CREATION OF PROVINCE.

Appeal from the Supreme Court of Canada, answering questions referred to it by the Governor-General in Council, dated the 3rd May, 1930. The questions submitted were:—(1) Upon Rupert's Land and the North-Western Territory being admitted into and becoming a part of the Dominion of Canada under Order in Council of the 23rd June, 1870, were all lands then vested in the Crown and now lying within the boundaries of the Province of Saskatchewan (created out of the above lands in 1905) vested in the Crown—(*a*) In the right of the Dominion of Canada; or (*b*) in the right of any province or provinces to be established within such area; or (*c*) to be administered for any province or provinces to be established within such area; or (*d*) to be administered for the benefit of the inhabitants from time to time of such area? (2) Is the Dominion of Canada under obligation to account to the Province of Saskatchewan for any lands within its boundaries alienated by the Dominion of Canada prior to the 1st September, 1905? The Supreme Court of Canada answered all the questions in favour of the Dominion, and the Provinces of Saskatchewan and Alberta now appealed.

Lord ATKIN, giving the judgment of the Boad, dismissing the appeal, said that their lordships had no doubt whatever that the effect of the relevant legislation was, on the admission of the area in question into the Dominion in 1870 to give to the Dominion full control of the land, to be administered for the purposes of the Dominion as a whole, and not merely for the inhabitants of the area. The second question seemed to be intended to ask as to the existence of a legal obligation to account to the Province of Saskatchewan for something done before the province came into existence, without any statutory provision for the province inheriting, or in some way having transferred to it, the rights, whatever they were, which were before 1905 invaded. As no rights were invaded it was obvious that the question was correctly answered, "No." Appeal dismissed, without costs.

COUNSEL: *Sir John Simon*, K.C., *M. A. Macpherson*, K.C., *A. E. Bence*, K.C., *G. H. Barr*, and *Frank Gahan*, for the appellants; *H. Guthrie*, K.C., and *C. P. Plaxton*, K.C., for the respondent.

SOLICITORS: *Blake & Redden; Charles Russell & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Court of Appeal.

In re Veale's Will and Codicils: Malone *v.* James.

Lord Hanworth, M.R., Lawrence and Romer, L.JJ. 19th and 20th October.

WILL—POWER OF APPOINTMENT—JOINTURE—"FREE OF ALL TAXES AND INCUMBRANCES WHATSOEVER"—SUR-TAX AND INCOME TAX.

Appeal from a decision of Bennett, J. (reported 75 SOL. J. 458).

William Veale made his will on the 22nd November, 1865, and died on the 8th September, 1867. By his will he settled certain property in succession after the death of certain persons and provided that every person who became a tenant for life might appoint an annual sum to be paid to his wife by way of jointure "such sum not to exceed £300 a year free and clear of all taxes and incumbrances whatsoever." George Cumming Fitzgerald ultimately became tenant for life, and on the 10th February, 1893, appointed a jointure of £300 a year to his wife, Ellen Creagh Fitzgerald "free and clear of all taxes and incumbrances whatsoever." He died without issue and the appellant became tenant for life. His wife survived him and enjoys an income which attracts sur-tax. Bennett, J., held that income tax but not sur-tax must be deducted from the sum payable to her.

Lord HANWORTH, M.R., allowing the appeal, said that he found it impossible to say that what was contemplated by the phrase "free and clear of all taxes and incumbrances whatsoever" was the liability of the land and not the liability of the recipient of the annuity. It was contemplated that the sum to be paid over should be immune from all depletion. Income tax and super-tax or sur-tax cannot be distinguished. In the statutes dealing with them, the latter are treated as an additional duty of income tax. The case of *In re Bates* [1925] 1 Ch. 157 is distinguishable. The words include all taxes present and future, whether falling on the annuitant herself or on the person liable to pay the annuity.

LAWRENCE and ROMER, L.JJ., concurred.

COUNSEL: *Archer*, K.C., and *F. Grant*; *Jenkins*, K.C., and *Braund*; *Cyril King*.

SOLICITORS: *Gregory, Rowcliffe & Co.*, for *Bond, Pearce and Co.*, of Plymouth; *Robbins, Olivey & Lake*, for *Grylls and Paige*, of Redruth.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Smith: Public Trustee *v.* Smith.

Lord Hanworth, M.R., Lawrence and Romer, L.JJ. 28th October.

WILL—CONSTRUCTION—RESIDUE BEQUEATHED TO "MY COUNTRY ENGLAND"—VALID CHARITABLE GIFT.

Appeal from a decision of Bennett, J.

By his will, dated in 1917, Theodore Wynford Smith, of Newton Abbot, Devon, who died in 1930, gave all his estate and effects "unto my country England to and for own use and benefit absolutely." Upon a summons taken out by the Public Trustee, as sole executor, Bennett, J., thought that the gift was not, as contended by the Attorney-General, a valid charitable gift for the general benefit of the community, because it was vague in form, and might include objects not necessarily charitable. Nor was it in a form to indicate, as contended by the Solicitor-General, a bequest in favour of His Majesty's Treasury. It followed that it was undisposed of, and passed to the next-of-kin. The Attorney-General and Solicitor-General appealed, the latter intimating that he would only press his contention in the event of that of the Attorney-General failing.

THE COURT allowed the appeal of the Attorney-General. Lord Hanworth, M.R., said that he did not think the gift so vague as had been suggested. There was no question that a gift to a county was good. The two points to be considered were very mixed up. They were (1) whether the gift was too uncertain; and (2) whether it was a charitable gift so as to eliminate any danger from other rules of law. So far back as *West* v. *Knight*, 1 Cas. in Chancery, 134, it was decided that a gift to a parish was good, although there was there no specification of the purposes for which the gift was to be used. *Attorney-General* v. *Lonsdale* (1827), 1 Sim. 105, *Attorney-General* v. *Carlisle Corporation*, 2 Sim. 437, *Mitford* v. *Reynolds* (1842), 1 Ph. 185, and *Nightingale* v. *Goulbourn*, 2 Ph. 594, were all instances of gifts of the sort held good. In *Income Tax Commissioners* v. *Percival*, Lord Halsbury said (1891 A.C., at p. 544): "A gift 'to the Queen's Chancellor of the Exchequer for the time being, and to be by him appropriated to the benefit and advantage of my beloved country, Great

Britain (*Nightingale* v. *Goulbourn*)' is a charitable purpose." In *Attorney-General* v. *Webster*, L.R. 20 Eq. 483, Sir George Jessel said that where there was a bequest to a parish, city, province, or the like, that was valid, because it consisted of a gift for charitable purposes in the city, parish, or province mentioned. Recent cases, such as *In re Macduff* [1896] 2 Ch. 451, *Blair* v. *Duncan* [1902] A.C. 37, and *Houston* v. *Burns* [1911] A.C. 337, were said to be against that view. But the key to those cases was that there was in each of them a gift for several purposes disjunctively, not all of which were charitable. *In re Tetley* [1923] 1 Ch. 258; [1924] A.C. 264, was a case of the same kind. There nothing in that case intended to overrule the sequence of cases beginning with *West* v. *Knight* and ending with *Nightingale* v. *Goulbourn*. The result was that there was a good charitable gift for England, and the property must be transferred to such persons as His Majesty should direct under his sign manual.

Lords Justices LAWRENCE and ROMER delivered judgments to like effect.

COUNSEL: *Stafford Crossman*, for the Attorney-General: *A. Andrewes-Uthwatt*, for the Solicitor-General; *H. F. F. Greenland* and *Wilfrid Hunt*, for the next-of-kin; *J. H. Stamp*, for the Public Trustee.

SOLICITORS: *Treasury Solicitor; Sharpe, Pritchard & Co.*, for *W. C. Cripps, Son & Harries*, Tunbridge Wells; *Walter Crimp & Co.*, for *Harold Michelmore & Co.*, Newton Abbot.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Hyde: Smith** *v.* **Jack.**

Maugham, J. 15th October.

WILL—"CHILDREN OR REPUTED CHILDREN"—POWER OF APPOINTMENT—NOT CONTRARY TO PUBLIC POLICY.

By his will the testator herein directed that the income from his residuary estate should go to his son for life, and after his death be held in trust for such son's "children or reputed children" as the son should by will or codicil appoint. The son had two legitimate and three illegitimate children. Of the legitimate children one predeceased him and the other was expressly excluded under the testator's will. The son, in exercise of his power, appointed the income of the residuary estate to his second and third illegitimate children in equal shares, describing them in his will as his "children or reputed children." The trustees of the testator's will asked in this summons whether or not the trusts in favour of "children or reputed children" were void on the ground of public policy.

MAUGHAM, J., in giving judgment, said that there was no difficulty in law in ascertaining who were to benefit under the power of appointment (*In re Loveland* [1906] 1 Ch. 542, and *Occleston* v. *Fullalove* (1874), L.R. 9 Ch. 147). In this case the testator intended to create a power of appointment for the benefit of all reputed children of his son coming into existence before such son's will became operative. The question was whether it was contrary to public policy to enable another person to provide for his illegitimate children. Statutes such as the Legitimacy Act, 1926, indicate that it is the view of the Legislature that public policy does not require that innocent persons should be penalised. His Lordship was not prepared to hold that this testator, by his will, intended to encourage immorality and the gift was accordingly valid.

COUNSEL: *J. M. Easton; Preston*, K.C., and *H. C. Easton; Bell.*

SOLICITORS: *Stow, Preston & Lyttelton*, for *Waddington and Son*, Burnley; *Bentleys*, for *Henry G. W. Cooper*, Burnley.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re **King: Henderson** *v.* **Cranmer.**

Clauson, J., 20th October.

WILL—CHARITABLE TRUSTS—SOME VALID AND SOME INVALID—LIMITATION OF LOCALITY.

David King, who died in May, 1929, by his will dated 15th April, 1929, gave half of the proceeds of his estate upon trust to establish a fund for the benefit of the inhabitants of his native parish for the following objects, namely (1) the relief of indigent poor; (2) the relief of sick persons; (3) providing a certificated nurse; (4) assisting the payment of premiums for apprenticeship or advanced education or emigration; (5) assistance in furthering sports or pastimes; (6) entertaining scholars or providing prizes; (7) providing lectures of an educational nature; (8) assisting any musical or literary society in the district. This summons was taken out to determine whether the above gifts were valid. On 21st July, 1931, Clauson, J., decided that the gift, so far as it was a gift of movables, was valid by Scottish law, and that so far as it included immovables its validity was governed by the law of England.

CLAUSON, J., said it had been contended that the effect of the will was to limit the localities within which the objects were to be pursued, and therefore all the objects including (5) and (8) must be treated as public objects for the benefit of those localities, and as such, by reason of the limitation, were charitable. It was impossible so to decide in face of the statement of the law by Eve, J., in *In re Gwyon* [1930] 1 Ch. 255, 261, where he said: "A trust which is not a charitable trust cannot be changed into a charitable one by limiting the area in which it is to operate." Accordingly the gift would be declared valid as regarded objects (1), (2), (3), (4), (6), (7), but invalid as regarded objects (5) and (8).

COUNSEL: *C. A. J. Bonner; C. E. Harman; R. Jennings; Stafford Crossman.*

SOLICITORS: *Burton, Yates & Hart*, for *J. K. Nye & Donne*, Brighton; *Berrymans; Treasury Solicitor.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

In re **Hadden: Public Trustee** *v.* **More.**

Clauson, J. 20th October.

WILL—CHARITABLE TRUST—GIFT FOR WORKING PEOPLE—LAND FOR RECREATION OF THE PUBLIC.

This was an originating summons which raised a question as to the validity of a gift to the working people.

By his will dated 30th April, 1929, Harvey Hadden, who died in February of this year, provided by cl. 14 as follows: "Subject as aforesaid my trustees shall hold my residue or such part thereof as shall not be disposed of upon trust subject always to the payment of the legacies hereinbefore declared to be expended in some scheme or schemes to be approved by my trustees for the benefit, in the cities of Vancouver and, if in the opinion of my trustees there is some equally deserving object of the nature hereinafter indicated, of Nottingham or other places, of the working people such as playing fields, parks, gymnasiums or other places which will give recreation to as many people as possible, but as regards Vancouver I would not exclude some educational purpose being considered by my trustees." This summons was taken out by the Public Trustee, one of the executors and trustees, to have it determined whether the trusts in cl. 14 were valid charitable trusts.

CLAUSON, J., in a considered judgment said the benefits authorised by cl. 14 were benefits which supplied healthy recreation mainly in the open air and in particular by means of playing fields, parks and gymnasiums. There was nothing in that construction in the cases referred to to prevent his holding the trust to be valid. But the rule against a perpetuity would prevent the trust being valid unless it could be held to be charitable. But having regard to the Mortmain and Charitable Uses Act, 1888, s. 6, he must hold that the provision

of the means of public recreation was a charitable object within the Statute of Elizabeth, and therefore the trust declared by cl. 14 was a valid charitable trust. The health and welfare of the working people was the dominant object. There would be a reference to chambers to settle a scheme.

COUNSEL: *A. H. Droop; Lionel Cohen*, K.C., and *Wilfrid Hunt; Cleveland Stevens*, K.C., and *C. R. R. Romer; Stafford Crossman*.

SOLICITORS: *Charles Russell & Co.; Radcliffes & Hood, St. Barbe Sladen & Wing*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Societies.

United Law Society.

A debate of the above Society was held on Monday, the 9th inst., at 7.45 p.m., in the Middle Temple Common Room. Mr. George Bull was in the chair. Mr. S. E. Pocock moved: "That in the opinion of the House the case of *Slingsby* v. *District Bank Limited*, 47 T.L.R. 587, was wrongly decided." Mr. F. H. Butcher opposed. There also spoke Messrs. S. A. Redfern, R. W. Bell, H. S. Wood Smith and S. E. Redfern. Mr. Pocock having replied, the motion was put to the House and lost by one vote.

Law Association.

The usual monthly meeting was held at The Law Society's Hall on Thursday, the 5th inst., Mr. Frank S. Pritchard in the chair. The other directors present were: Mr. J. D. Arthur, Mr. E. B. V. Christian, Mr. Guy H. Cholmeley, Mr. Douglas T. Garrett, Mr. H. Ross Giles, Mr. G. D. Hugh-Jones, Mr. P. E. Marshall, Mr. C. D. Medley, Mr. C. F. Pridham, Mr. John Venning, Mr. William Winterbotham, Mr. W. M. Woodhouse, and the secretary, Mr. E. E. Barron. A sum of £132 was voted in relief of deserving applicants, being the widows and daughters of deceased London solicitors, and other general business was transacted.

Society for Jewish Jurisprudence (English Branch).

Mr. R. E. L. Vaughan Williams, K.C., has been elected President of the above Society in the place of Mr. A. M. Langdon, K.C., who has retired. Mr. Bertram B. Benas, M.A., LL.B., was elected a Vice-President and Mr. B. B. Lieberman, M.A., has been appointed Honorary Secretary in the place of Mr. Edward F. Iwi, who has resigned.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Court Room, on Tuesday, 10th November, 1931 (Chairman, Mr. T. M. Jessup), the subject for debate was: "That the case of *Blundy Clark & Co., Ltd.* v. *London & North Eastern Railway Co.* [1931] 2 K.B. 334, was wrongly decided." Mr. R. Langley Mitchell opened in the affirmative; Mr. H. Trott opened in the negative; Mr. J. W. Notcutt seconded in the affirmative; and Mr. K. E. Allanson seconded in the negative. The following members also spoke: Messrs. W. M. Pleadwell, C. F. S. Spurrell, I. T. Smith, J. C. Christian-Edwards, and Miss H. M. Cross. The opener having replied, the motion was lost by two votes. There were twenty-three members and two visitors present.

AGENDA PAPER.

Tuesday, 17th November, 1931, at 7.30 p.m. (Chairman, Mr. R. S. W. Pollard).—"That tithe rent-charge is an unjust burden on agriculture." Affirmative: Mr. E. F. Iwi. Negative: Mr. C. F. S. Spurrell.

Tuesday, 24th November, 1931, at 7.30 p.m. (Chairman, Mr. A. L. Ungoed Thomas).—"That the case of *Charles Hunt, Ltd.* v. *Palmer* [1931] 2 Ch. 287, was wrongly decided." (A person attending an auction was declared the purchaser of certain leasehold shops described in the particulars of sale as "valuable business premises." They were, in fact, only capable at law of being used as a ladies' outfitters, etc. The declared purchaser did not know this when he was bidding, but the vendors claimed that by the conditions of sale he was fixed with notice of it. Action for specific performance and counter-claim for rescission of contract and return of deposit.) Affirmative: Mr. I. T. Smith, Mr. R. F. G. Swinson, M.A. Negative: Mr. W. M. Pleadwell, Mr. D. H. McMullen, B.A.

The Solicitors' Managing Clerks' Association.

We would remind our readers that the Twenty-sixth Festival Dinner of the Association will be held at Wharncliffe Rooms, Hotel Great Central, Marylebone-road, London, N.W.1, on Thursday, 26th November, 1931, at 6.45 p.m., when the President (Mr. Ebenezer Smith) will be in the chair. The Right Hon. Lord Macmillan, The Hon. Mr. Justice Eve, The Hon. Mr. Justice Hawke, The Hon. Mr. Justice Macnaghten, Mr. A. T. Miller, K.C., Mr. St. John G. Micklethwait, K.C., Mr. Charles Doughty, K.C., The President of The Law Society, and other prominent members of the legal profession have promised to attend.

An orchestra will play during the reception and dinner, and the following well-known artistes: Miss Megan Thomas (soprano) and Mr. Ernest Hargreaves (baritone) (with Mr. W. R. Simmons, A.R.C.O., at the piano), will give a selection of songs during the evening.

Tickets, £1 1s. each, may be obtained from members of the Council or from the Hon. Secretary (Mr. Thos. R. S. Perry), at the offices of the Association, Arundel House, Arundel-street, Strand, W.C.2.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve the appointment of His Honour Judge WILLIAM PROCTER to be a Commissioner of Assize to the Northern Circuit. Upon receiving his appointment, Judge Procter has asked that he shall not receive the usual fees or allowances payable to a Commissioner of Assize. Judge Procter has been a Judge of County Courts since 1928. He was called to the Bar, by Gray's Inn, in 1905.

The King has been pleased to approve the appointment of Mr. ARCHIE GERALD MOSELEY, Indian Civil Service, as a Puisne Judge of the High Court of Judicature at Rangoon, in succession to Mr. Justice W. Carr Knight, who retires in February next.

Mr. L. B. LEE, solicitor, Erith, has been appointed Clerk and Solicitor to the Portland Urban District Council. Mr. Lee was admitted in 1930, and has been in the employ of the Erith Urban District Council for upwards of seven years.

Mr. Justice ALEXANDER FRASER RUSSELL, a Puisne Judge of the High Court of Southern Rhodesia, has been appointed Chief Justice of Southern Rhodesia in succession to the late Sir Murray Bissett. Mr. Justice Russell was called by the Middle Temple in 1901.

Mr. WILLIAM ADAMS, solicitor (of the firm of Adams & Land), Town Clerk of Saffron Walden and Clerk to the Justices for the Borough of Walden and to the Justices of the Linton and Walden Divisions of the county, Superintendent Registrar and Clerk to the Commissioners of Taxes for the Walden and Freshwater Division, has been appointed a Deputy Lieutenant for the County of Essex.

Mr. R. A. E. VOYSEY, solicitor, Eye (Suffolk), acting Town Clerk, has now been appointed Town Clerk of that borough.

Mr. F. J. CRAKER has been appointed principal Clerk to the Town Clerk of the City of London, at Guildhall (Sir J. Bell) in succession to Mr. T. Harvey Hull. Mr. Craker has been in the service of the Corporation for over twenty-five years.

The King has been pleased to give directions for the appointment of Mr. J. W. GORDON MCDOUGALL (Senior Magistrate) to be a Judge of His Majesty's High Court of Tanganyika; and also for the appointment of Mr. E. J. MACQUARRIE (Solicitor-General, Tanganyika) to be a Judge of the Circuit Court of the Protectorate and Puisne Judge of the Supreme Court of the Colony of Sierra Leone.

Mr. E. A. MITCHELL-INNES, C.B.E., K.C., has been appointed Chairman of the Bar Council in the place of Sir Thomas Hughes, K.C., who has retired from active practice at the Bar. Mr. Mitchell-Innes served as Vice-Chairman of the Council for four years. He was called to the Bar in 1894, and joined the North-Eastern Circuit, and is now the leader of that circuit. He took silk in 1908, and is a Bencher of the Middle Temple, Recorder of Leeds, and Chairman of the Hertfordshire Quarter Sessions.

Mr. W. HEDLEY has been appointed Acting Town Clerk of Jarrow pending the appointment of a successor to Mr. Johnson (the Town Clerk) who died recently.

Mr. RANDOLPH MORRIS, K.C., has been elected a Bencher of the Honourable Society of Lincoln's Inn, in the place of the late Sir Edward Clarke, K.C.

Professional Partnerships Dissolved.

The partnership hitherto subsisting between Mr. HENRY DUGDALE SYKES and Mr. HOWARD MORRIS, solicitors, has been dissolved as from the 20th June, 1931. The business will be carried on at the Old Vestry Offices, Enfield Town, by Mr. Howard Morris, under the firm name of "Dugdale Sykes and Morris" (Telephone, Enfield 0080).

The dissolution is announced of the partnership hitherto subsisting between JOHN WHITE and CHARLES EDWARD SHAW WHITFORD, practising at 28, Budge-row, London, E.C.4, as "Whites & Company." The practice will be continued by Mr. Whitford at the same address and under the same style as heretofore.

REGINALD WEBSTER, solicitor, commissioner for oaths and notary public, and JOSEPH IBBOTSON KEER, solicitor and commissioner for oaths, both of 5, Leopold-street, Sheffield (Webster & Keer), dissolved by mutual consent, as and from 30th September, 1931. R. Webster will continue to carry on the practice at 5, Leopold-street, Sheffield, in partnership with George Albert Bolsover, solicitor, under the style or firm of Webster & Co.

JOHN ABRAHAM KINGDON and REGINALD LLOYD DAWSON, solicitors, 56, Church-street, Basingstoke, and Farnborough (John A. Kingdon and Dawson), dissolved as and from 5th October, 1931, by mutual consent. J. A. Kingdon will continue to carry on the business in his own name.

JOHN WHITE and CHARLES EDWARD SHAW WHITFORD, solicitors, 28, Budge-row, in the City of London (Whites and Company), dissolved by mutual consent as from 1st October, 1981.

Wills and Bequests.

Mr. Francis Reade Hedges, solicitor (a member of the firm of Hedges & Son) and Town Clerk of Wallingford and Clerk to the Urban District Council, Burial Board and Old Age Pensions Committee, Clerk to the Borough Justices and to the Moreton Division and Clerk to the Commissioners of Taxes, left estate of the gross value of £9,223, with net personalty £7,363.

Mr. George Dunlop, of Colinton, Edinburgh, solicitor and notary public, left personal estate of the gross value of £19,868.

Mr. John Thomas Beadsworth Sewell, solicitor to the British Embassy in Paris, left estate in England of the gross value of £7,844.

Mr. Henry Stewart Jolly, of Stanmore, late Chief Registrar of the Supreme Court, left estate (in his own disposition) of the gross value of £7,571, with net personalty £7,440.

Mr. Lawson N. Peregrine, barrister-at-law, St. Leonards-on-Sea, late District Commissioner, Gold Coast, left estate of the gross value of £21,154, with net personalty £18,724. The bulk of the property was left on trust for his wife for life. His will closes: "Lastly, I desire particularly to record the request that no property of mine of any description is to be given to any relations of my said wife."

Mr. Thomas W. Alexander, solicitor, of Rothesay, left personal estate valued at £7,694.

Mr. Alfred Henry Collingwood, solicitor, of Skinburness, Cumberland, for forty years town clerk of Carlisle left estate of the gross value of £6,094, with net personalty £1,517.

Mr. Frederick Ryall, sixty-eight, of Bournemouth, Town Clerk of Bermondsey from 1894-1927, left estate of the gross value of £4,411, with net personalty £4,279.

Mr. Charles John Legge, of Birkenhead, and of Liverpool, solicitor, and partner in Oliver, Jones, Billson & Co., left estate of the gross value of £7,023, with net personalty £5,722.

Mr. John William Bickle, of Plymouth, Solicitor of the Supreme Court, left estate of the gross value of £15,606.

Mr. Alexander Shearer, of Greenock, solicitor, left personal estate of the gross value of £2,750.

Mr. John George Smith, of Newcastle-upon-Tyne, solicitor, left estate of the gross value of £5,210.

Mr. James Edward Garnons Lawrence, solicitor, of Chepstow, Mon., a former President of the Monmouthshire Incorporated Law Society, and a member of the Governing Body of the Church in Wales, who died on 17th April, aged fifty-eight, left estate of the gross value of £74,443, with net personalty £56,741.

Mr. John Bartlett, of Sidcup, solicitor, who, died on 18th August, aged eighty, left £13,779, with net personalty £26,737. He gives £50 to his former clerk, James McDonald; his collection of Bartolozzi engravings and all books illustrated by him are to be offered for sale to the Victoria and Albert Museum.

Mr. Thomas Benjamin Middleton, of Shankill, Co. Dublin, solicitor, left personal estate in England and the Irish Free State of the gross value of £12,213.

DOGS AND MOTORISTS.

The subject of the duty of motorists in regard to dogs on the highway is raised by a recent letter in *The Times* from a dog owner complaining that his dog had been run over and killed by a motor car. "The motorist, according to a witness, must have seen the accident; but he did not even stop to see what suffering he had caused. In the case of a human life this offence would be treated with the severest punishment . . . Cannot motorists who kill our dumb friends be also punished?" Of course they can, assuming that the evidence shows a sufficient degree of negligence. Upon such proof, of course, damages might be recovered by the owner of the dog. But, apart from that, s. 22 of the Road Traffic Act, 1930, specifically requires the driver of any motor vehicle who runs over a dog to stop, and, if required, to give his name and address and particulars of the ownership of his car to any person having reasonable grounds for so requiring. Presumably any person who witnesses the accident would have "reasonable grounds" for so requiring; and, as failure to stop or to give particulars on request are both "offences," it would seem that the best and most reliable of all witnesses would be the person who takes the number of the car. The owner and the police can do the rest.

FUTURE LEGISLATION.

When the Expiring Laws Continuance Bill is presented it will, says *The Times*, be found that it includes three measures of first-class importance—namely, the Dyestuffs Act, which was included in the Bill last year; the Rent Restriction Act; and the Prolongation of Insurance Act, which safeguards the health insurance rights of unemployed workers. In spite of the criticisms levelled against the Statute of Westminster by Mr. Morgan on Tuesday, the Government feels that that measure must be passed by Parliament as it stands. The London Passenger Transport Bill is not likely to be brought before the House of Commons again until February, since conferences are to be held with the different authorities concerned in an effort to make it more generally acceptable. In order to get the Bill through both Houses it is probable that the Parliamentary Secretary to the Ministry of Transport will be elevated to the peerage.

STAFF INCOME TAX.

The abnormally heavy burden of income tax upon municipal staffs, in common with other members of the community, gives rise, says the *Municipal Journal*, to a suggestion by which the finance department, with the approval of the council, may render a service to their colleagues. It is a comparatively simple matter for the effective rate of income tax applicable to each member of the staff to be ascertained. By agreement with the staff, it is not difficult then to make monthly deductions from salary the accumulation of which will suffice to pay income tax demands.

SUPREME COURT PAY OFFICE.

Mr. J. A. Longley, who retired from the post of Assistant Paymaster-General for Supreme Court business on the 27th August last, entered the Pay Office as Deputy Assistant Paymaster-General in December, 1905, and succeeded the late Mr. J. M. Paulton as Assistant Paymaster-General in August, 1921. Mr. Longley served for a longer period in the two positions than any other previous Paymaster.

An alteration in the administration of the Pay Office was effected by the Supreme Court of Judicature (Consolidation) Act, 1925 (15 & 16 Geo. 5, ch. 49), s. 133, which enacted that "There shall be an Accountant-General of, and an accounting department for, the Supreme Court," that "the Clerk of the Crown shall be the Accountant-General," that "all funds . . . in Court . . . shall be vested in the Accountant-General," and that "references to the Paymaster-General in any rules made . . . before the commencement of this Act shall be construed as references to the Accountant-General."

Sir Claud Schuster, G.C.B., C.V.O., K.C., as Clerk of the Crown, became the Accountant-General.

Following this change in administration and consequent upon the retirement of Mr. Longley, the Lord Chancellor and the Treasury have decided that the post of Assistant Paymaster-General shall now lapse, and that the chief officer of the Pay Office staff shall in future be styled "Chief Accountant." To this post the Lord Chancellor has appointed Mr. F. Coucher, formerly the senior Principal Clerk and Deputy to the Assistant Paymaster-General.

It is interesting to note that the office of the Accountant-General was established in the year 1726 under the Act 12 Geo. 1, ch. 32, for the purpose of keeping accounts between the suitors and the Bank of England. In 1872, under the Chancery (Funds) Act, 1872 (35 & 36 Vic., ch. 44), the powers of the Accountant-General devolved upon the Paymaster-General, and, under the 1925 Act, mentioned above, suitors' funds became vested in the Accountant-General of the Supreme Court. Thus, the term "Paymaster," which was applied to the head of the office from 1872 to the retirement of Mr. Longley, now becomes obsolete.

SOLICITOR SENTENCED.

Wilfred Wilson Legge, twenty-seven, a solicitor, of Mold, was sentenced at the Denbighshire Assizes at Ruthin on the 22nd ult., to four years' penal servitude for converting to his own use £600 of a woman client's money and forging a guarantee to obtain £500 advance from his bank.

Mr. A. T. Shepherd, aged eighty, is retiring from the position of Registrar of the Sunderland and South Shields County Courts, which he has held since 1912.

Insurance Notes.

The directors of the Alliance Assurance Company, Limited, at their meeting on 11th November, declared an interim dividend, payable on the 5th January, 1932, of 8s. per share, less income tax.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness, Part I.	MR. JUSTICE MAUGHAM. Non-Witness.
M'nd'y Nov. 16	Mr. Ritchie	Mr. Hicks Beach	Mr. Hicks Beach	Mr. Jones
Tuesday .. 17	Blaker	Andrews	*Blaker	Hicks Beach
Wednesday 18	More	Jones	Jones	Blaker
Thursday 19	Hicks Beach	Ritchie	*Hicks Beach	Jones
Friday 20	Andrews	Blaker	Blaker	Hicks Beach
Saturday .. 21	Jones	More	Jones	Blaker

DATE	GROUP I. MR. JUSTICE BENNETT.	MR. JUSTICE CLAUSON.	GROUP II. MR. JUSTICE LUXMOORE.	MR. JUSTICE FARWELL.
M'nd'y Nov. 16	Mr. *Blaker	Mr. More	Mr. *Andrews	Mr. *Ritchie
Tuesday .. 17	*Jones	Ritchie	*More	Andrews
Wednesday 18	*Hicks Beach	Andrews	*Ritchie	*More
Thursday 19	Blaker	More	Andrews	Ritchie
Friday 20	*Jones	Ritchie	More	*Andrews
Saturday .. 21	Hicks Beach	Andrews	Ritchie	More

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (20th September, 1931) 6%. Next London Stock Exchange Settlement Thursday, 19th November, 1931.

	Middle Price 11 Nov. 1931.	Flat Interest Yield.	Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	84½	4 14 8	—
Consols 2½%	56	4 9 3	—
War Loan 5% 1929-47	97xd	5 3 1	—
War Loan 4½% 1925-45	96xd	4 13 9	4 17 9
Funding 4% Loan 1960-90	85½	4 13 7	4 14 6
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	92¾	4 6 3	4 8 6
Conversion 5% Loan 1944-64	100½	4 19 6	4 19 3
Conversion 4½% Loan 1940-44	96½	4 13 3	4 17 6
Conversion 3½% Loan 1961	74½	4 14 0	—
Local Loans 3% Stock 1912 or after	62½	4 16 0	—
Bank Stock	251	4 15 7	—
India 4½% 1950-55	74	6 1 7	—
India 3½%	54	6 9 8	—
India 3%	46	6 10 5	—
Sudan 4½% 1939-73	94½	4 15 3	4 16 0
Sudan 4% 1974	84½	4 14 8	4 17 6
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	81½	3 13 7	4 6 6
Colonial Securities.			
Canada 3% 1938	86½	3 9 4	5 6 9
Cape of Good Hope 4% 1916-36	92½	4 6 6	5 15 0
Cape of Good Hope 3½% 1929-49	80½	4 6 11	5 3 8
Ceylon 5% 1960-70	98	5 2 0	5 2 3
Commonwealth of Australia 5% 1945-75	82	6 1 11	6 4 3
Gold Coast 4½% 1956	92	4 17 10	5 1 0
Jamaica 4½% 1941-71	91½	4 18 4	5 0 0
Natal 4% 1937	92½	4 18 4	5 0 0
New South Wales 4½% 1935-45	69½	6 9 6	7 7 3
New South Wales 5% 1945-65	74½	6 14 3	7 0 3
New Zealand 4½% 1945	86½	5 4 0	6 0 3
New Zealand 5% 1946	94½	5 5 10	5 11 6
Nigeria 5% 1950-60	97½	5 2 7	5 3 6
Queensland 5% 1940-60	76½	6 10 9	6 17 6
South Africa 5% 1945-75	100	5 0 0	5 0 0
South Australia 5% 1945-75	73½	6 16 1	6 19 0
Tasmania 5% 1945-75	67	7 9 3	7 12 6
Victoria 5% 1945-75	77½	6 9 0	6 12 6
West Australia 5% 1945-75	77½	6 9 0	6 12 6
The prices of Stocks are in many cases nominal and dealings often a matter of negotiation.			
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 14 6	—
Birmingham 5% 1946-56	100	5 0 0	5 0 0
Cardiff 5% 1945-65	100	5 0 0	5 0 0
Croydon 3% 1940-60	68½	4 7 7	5 2 6
Hastings 5% 1947-67	100	5 0 0	5 0 0
Hull 3½% 1925-55	82½	4 4 10	4 14 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	72½	4 16 7	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	53xd	4 14 4	—
London City 3% Consolidated Stock after 1920 at option of Corporation	63xd	4 15 3	—
Metropolitan Water Board 3% "A" 1963-2003	64	4 13 9	—
Do. do. 3% "B" 1934-2003	65	4 12 4	—
Middlesex C.C. 3½% 1927-47	85½	4 1 10	4 16 0
Newcastle 3½% Irredeemable	72	4 17 3	—
Nottingham 3% Irredeemable	63½	4 14 6	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	100	5 0 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	82½	4 17 0	—
Gt. Western Railway 5% Rent Charge	96	5 4 2	—
Gt. Western Rly. 5% Preference	83½	5 19 9	—
L. & N.E. Rly. 4% Debenture	73	5 9 7	—
L. & N.E. Rly. 4% 1st Guaranteed	68½	5 16 10	—
L. & N.E. Rly. 4% 1st Preference	55½	7 4 2	—
L. Mid. & Scot. Rly. 4% Debenture	76½	5 4 7	—
L. Mid. & Scot. Rly. 4% Guaranteed	68½	5 16 10	—
L. Mid. & Scot. Rly. 4% Preference	55½	7 4 2	—
Southern Railway 4% Debenture	77½	5 3 3	—
Southern Railway 5% Guaranteed	93¾	5 6 11	—
Southern Railway 5% Preference	75½	6 12 5	—